
United States
Circuit Court of Appeals
For the Ninth Circuit.

SALVATORE MAUGERI,

Appellant,

vs.

UNITED STATES OF AMERICA,

Appellee.

Transcript of Record

Upon Appeal from the District Court of the United
States for the Northern District of California,
Southern Division.

FILED

SEP 13 1935

PAUL P. O'BRIEN,

CLERK



No. 7901

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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In the Southern Division of the United States
District Court for the Northern District of
California.

No. 25364-L

SALVATORE MAUGERI,
Defendant-Appellant,
vs.

UNITED STATES OF AMERICA,
Plaintiff-Appellee.

ATTORNEYS

For Plaintiff:

H. H. McPIKE,
United States Attorney,
San Francisco, California.

For Defendant:

CHARLES H. BRENNAN,
EDMUND J. DUNNING,
315 Montgomery Street,
San Francisco, California.

[Title of Court.]

FIRST COUNT: Title 18 U. S. C. A. Section 265.

In the March 1935 term of said Division of said District Court, the Grand Jurors thereof, upon their oaths, present:

THAT

GASPARE LA ROSA, SALVATORE MAUGERI
AND JIMMIE PASQUA

(hereinafter called the defendants), heretofore, to-wit, on or about the 28th day of September, 1934, in the City and County of San Francisco, State of California, within said Southern Division, then and there being, did then and there unlawfully, willfully, knowingly and feloniously with intent to defraud the United States and certain persons to the Grand Jurors aforesaid unknown, keep in their possession and conceal a certain falsely made, forged and counterfeited obligation and security of the United States, that is to say a falsely made, forged and counterfeited Federal Reserve note of the Federal Reserve Bank of New York, New York, which said note had theretofore been falsely made, forged and counterfeited to represent a Federal Reserve note of the denomination and value of Ten Dollars as said defendants well knew, which said falsely made, forged and counterfeited Federal Reserve note is more particularly described as follows, to-wit:

“10 FEDERAL RESERVE NOTE 10
THE UNITED STATES OF AMERICA

G Redeemable in Gold on Demand

at the United States Treasury B 48291638 A

or in Gold or lawful money

at any Federal Reserve Bank 2

TEN

2 (SEAL SEAL)

(Picture of Hamilton)

Hamilton

G 96

Washington, D. C.

2 B 48291638 A Series of 1928 B

W. O. Woods

A. W. Mellon

Treasurer of the

Secretary of the

United States

Treasury

10 WILL PAY TO THE BEARER 10

ON DEMAND

TEN DOLLARS”

[1*]

Reverse:

“10 THE UNITED STATES OF AMERICA 10
TEN

(Picture of U. S. Treasury)

U. S. Treasury

10 TEN DOLLARS 10”

SECOND COUNT: Title 18 U. S. C. A. Section
263.

And the said Grand Jurors upon their oaths do
further present:

*Page numbering appearing at the foot of page of original certified
Transcript of Record.

That said defendants, heretofore, on or about the 28th day of September, 1934, in the City and County of San Francisco, State of California, within said Southern Division then and there being, did then and there unlawfully, willfully, knowingly and feloniously, and with intent to defraud the United States and Mrs. Freemont Simpson and other persons to the Grand Jurors unknown, pass, utter, publish and sell a certain falsely made, forged and counterfeited note purporting to be issued by a banking association doing a banking business, authorized and acting under the laws of the United States, to-wit, the Federal Bank of New York, New York, which said note had theretofore been falsely made, forged and counterfeited to represent a Federal Reserve note of the denomination and value of Ten Dollars as said defendants well knew, and the said falsely made, forged and counterfeited Federal Reserve note is identical with the one more particularly described in the first count of this indictment, reference to which description is hereby made, and made a part of this count of this indictment as though fully set forth in full herein;

THIRD COUNT: Title 18, U. S. C. A., Section 265.

And the said Grand Jurors upon their oaths do further present: That said defendants heretofore, on or about the 13th day of November, 1934, in the City and County of San Francisco, State of California, within said Southern Division [2] then and there being, did then and there unlawfully, willfully, knowingly and feloniously with intent to

defraud the United States and certain persons to the Grand Jurors aforesaid unknown, keep in their possession and conceal a certain falsely made, forged and counterfeited obligation and security of the United States, that is to say a falsely made, forged and counterfeited Federal Reserve note of the Federal Reserve Bank of New York, New York, which said note had theretofore been falsely made, forged and counterfeited to represent a Federal Reserve note of the denomination and value of Ten Dollars, as said defendants well knew, which said falsely made, forged and counterfeited Federal Reserve note is identical with the one more particularly described in the First Count of this indictment, reference to which description is hereby made, and made a part of this count of this indictment as though fully set forth in full herein, with the exception of difference in serial numbering of said notes; that is to say the serial number in the upper right hand corner and lower left hand corner of the obverse side of said forged and counterfeited Federal Reserve Note is B 32288534 A.

FOURTH COUNT: Title 18 U. S. C. A., Section 263.

And the said Grand Jurors upon their oaths do further present:

That said defendants heretofore, on or about the 13th day of November, 1934, in the City and County of San Francisco, State of California, within said Southern Division then and there being, did then and there unlawfully, willfully, knowingly and feloniously, and with intent to defraud the United

States and Mrs. W. F. Buchan and other persons to the Grand Jurors unknown, pass, utter, publish and sell a certain falsely made, forged and counterfeited note purporting to be issued by a banking association doing a banking business authorized and acting under the laws of the United States, to-wit, the Federal Reserve Bank of New York, New York, that [3] is to say a falsely made, forged and counterfeited Federal Reserve note of the Federal Reserve Bank of New York, New York, which said note had theretofore been falsely made, forged and counterfeited to represent a Federal Reserve note of the denomination and value of Ten Dollars as said defendants well knew, and the said falsely made, forged and counterfeited Federal Reserve note is identical with the one more particularly described in the Third Count of this indictment, reference to which description is hereby made, and made a part of this count of this indictment as though fully set forth in full herein;

FIFTH COUNT: Title 18 U. S. C. A., Section 265.

And the said Grand Jurors upon their oaths do further present:

That said defendants heretofore, to-wit, on or about the 23rd day of November, 1934, in the City and County of San Francisco, State of California, within said Southern Division then and there being, did then and there unlawfully, willfully, knowingly and feloniously, with intent to defraud the United States and certain persons to the Grand Jurors aforesaid unknown, keep in their possession and

conceal a certain falsely made, forged and counterfeited obligation and security of the United States, that is to say a falsely made, forged and counterfeited Federal Reserve note of the Federal Reserve Bank of New York, New York, which said note had theretofore been falsely made, forged and counterfeited to represent a Federal Reserve note of the denomination and value of Ten Dollars as said defendants well knew, and the said falsely made, forged and counterfeited Federal Reserve note is identical with the one more particularly described in the First Count of this indictment, reference to which description is hereby made and made a part of this count of this indictment as though fully set forth in full herein, with the exception of difference in serial numbering of said note, that is to [4] say the serial number in the upper right hand corner and lower left hand corner of said forged and counterfeited Federal Reserve note is B 33494741 A.

SIXTH COUNT: Title 18 U. S. C. A., Section 263.

And the said Grand Jurors upon their oaths do further present:

That said defendants, heretofore on or about the 23rd day of November, 1934, in the City and County of San Francisco, State of California, within said Southern Division then and there being, did then and there unlawfully, willfully, knowingly and feloniously with intent to defraud the United States and Earl Roberts and other persons to the Grand Jurors unknown, pass, utter, publish and sell a certain falsely made, forged and counterfeited note

purporting to be issued by a banking association, doing business authorized and acting under the laws of the United States, to-wit, the Federal Reserve Bank of New York, New York, that is to say a falsely made and forged and counterfeited Federal Reserve note of the Federal Reserve Bank of New York, New York, which said note had theretofore been falsely made, forged and counterfeited to represent a Federal Reserve note of the denomination and value of Ten Dollars, as said defendants well knew, and the said falsely made, forged and counterfeited Federal Reserve note is identical with the one more particularly described in the Fifth Count of this indictment, reference to which description is hereby made, and made a part of this count of this indictment as though fully set forth in full herein;

SEVENTH COUNT: Title 18 U. S. C. A., Section 265.

And the said Grand Jurors upon their oaths do further present:

That said defendants, heretofore, to-wit, on or about the 30th day of November, 1934, in the City and County of San [5] Francisco, State of California, within said Southern Division, then and there being, did then and there unlawfully, willfully, knowingly and feloniously, with intent to defraud the United States and certain persons to the Grand Jurors aforesaid unknown, keep in their possession and conceal a certain falsely made, forged and counterfeited obligation and security of the

United States, that is to say a falsely made, forged and counterfeited Federal Reserve note of the Federal Reserve Bank of New York, New York, which said note had theretofore been falsely made, forged and counterfeited to represent a Federal Reserve note of the denomination and value of Ten Dollars as said defendants well knew, and the said falsely made, forged and counterfeited Federal Reserve note is identical with the one more particularly described in the first count of this indictment, reference to which description is hereby made, and made a part of this count of this indictment as though fully set forth in full herein with the exception of difference in serial numbering of said note, that is to say the serial number in the upper right hand corner and lower left hand corner of the obverse side of said forged, and counterfeited Federal Reserve note is B 33494741 A.

EIGHTH COUNT: Title 18, U. S. C. A., Section 263.

And the said Grand Jurors upon their oaths aforesaid do further present:

That said defendants, heretofore, to-wit, on or about the 30th day of November, 1934, in the City and County of San Francisco, within said Southern Division then and there being, did then and there unlawfully, willfully, knowingly and feloniously, with intent to defraud the United States and William F. Byrnes and other persons to the Grand Jurors unknown, pass, utter, publish and sell a certain falsely made, forged and counterfeited note

purporting to be issued by a banking association doing a banking business, authorized and acting under the laws of the United States, to-wit, the Federal [6] Reserve Bank of New York, New York, that is to say a falsely made, forged and counterfeited Federal Reserve note of the Federal Reserve Bank of New York, New York, which said note had theretofore been falsely made, forged and counterfeited to represent a Federal Reserve note of the denomination and value of Ten Dollars, as said defendants then and there well knew, and the said falsely made, forged and counterfeited Federal Reserve note is identical with the one more particularly described in the Seventh Count of this indictment, reference to which description is hereby made and made a part of this count of this indictment as though fully set forth in full herein;

NINTH COUNT: Title 18, U. S. C. A., Section 265.

And the said Grand Jurors upon their oaths do further present:

That said defendants heretofore, on or about the 22nd day of December, 1934, in the City and County of San Francisco, State of California, within said Southern Division then and there being did then and there unlawfully, willfully, knowingly and feloniously, with intent to defraud the United States and certain persons to the Grand Jurors aforesaid unknown, keep in their possession and conceal a certain falsely made, forged and counterfeited obligation and security of the United States, that is to say a falsely made, forged and counterfeited Federal Reserve note of the Federal Reserve Bank of New York, New York, which said

note had theretofore been falsely made, forged and counterfeited to represent a Federal Reserve note of the denomination and value of Ten Dollars, as said defendants well knew, and said falsely made, forged and counterfeited Federal Reserve note is identical with the one more particularly described in the First Count of this Indictment, reference to which description is hereby made, and made a part of this count of this indictment as though fully set forth in full herein, with the exception of [7] difference in serial numbering of said notes, that is to say the serial number in the upper right hand corner and lower left hand corner of the obverse side of said forged and counterfeited Federal Reserve note is B 33494741 A.

TENTH COUNT: Title 18, U. S. C. A., Section 263.

And the said Grand Jurors upon their oaths do further present:

That said defendants heretofore, to-wit, on or about the 22nd day of December, 1934, in the City and County of San Francisco, State of California, within said Southern Division, then and there being, did then and there unlawfully, willfully, knowingly and feloniously, and with intent to defraud the United States and Clarence L. Smith and other persons to the Grand Jurors unknown, pass, utter, publish and sell a certain falsely made, forged and counterfeited note, purporting to be issued by a banking association doing a banking business, authorized and acting under the laws of the United States, to-wit, the Federal Reserve Bank of New

York, New York, that is to say a falsely made and forged and counterfeited Federal Reserve note of the Federal Reserve Bank of New York, New York, which said note had theretofore been falsely made, forged and counterfeited to represent a Federal Reserve note of the denomination and value of Ten Dollars as said defendants well knew, and the said falsely made, forged and counterfeited Federal Reserve note is identical with the one more particularly described in the Ninth Count of this Indictment, reference to which description is hereby made, and made a part of this count of this indictment as though fully set forth in full herein;

ELEVENTH COUNT: Title 18, U. S. C. A., Section 265.

And the said Grand Jurors upon their oaths do further present:

That said defendants heretofore, on or about the 18th day of February, 1935, in the City and County of San Francisco, [8] State of California, within said Southern Division then and there being, did then and there unlawfully, willfully, knowingly and feloniously with intent to defraud the United States and certain persons to the Grand Jurors unknown, keep in their possession and conceal a certain falsely made, forged and counterfeited obligation and security of the United States, that is to say a falsely made, forged and counterfeited Federal Reserve note of the Federal Reserve Bank of New York, New York, which said note had theretofore been falsely made, forged and counterfeited to rep-

resent a Federal Reserve note of the denomination and value of Ten Dollars as said defendants well knew, and the said falsely made, forged and counterfeited Federal Reserve note is identical with the one more particularly described in the First Count of this indictment, reference to which description is hereby made, and made a part of this count of this indictment as though fully set forth in full herein, with the exception of difference in serial numbering of said notes, that is to say that the serial number in the upper right hand corner and lower left hand corner of the obverse side of said forged and counterfeited Federal Reserve note is B 32288534 A.

TWELFTH COUNT: Title 18 U. S. C. A. Section 263.

And the said Grand Jurors upon their oaths do further present:

That said defendants heretofore, to-wit, on or about the 18th day of February, 1935, in the City and County of San Francisco, State of California, within said Southern Division, then and there being, did then and there unlawfully, willfully, knowingly and feloniously, and with intent to defraud the United States and Dino Chelini and Gio Risoni, and other persons to the Grand Jurors unknown, pass, utter, publish and sell a certain falsely made, forged and counterfeited note purporting to be issued by a banking association, doing a banking business authorized and acting under the laws of the [9] United States, to-wit, the Federal Reserve Bank of New York, New York, that is to

say a falsely made and forged and counterfeited Federal Reserve note of the Federal Reserve Bank of New York, New York, which said note had theretofore been falsely made, forged and counterfeited to represent a Federal Reserve note of the denomination and value of Ten Dollars as said defendants well knew, and the said falsely made, forged and counterfeited Federal Reserve note is identical with the one more particularly described in the Eleventh Count of this Indictment, reference to which description is hereby made, and made a part of this count of this indictment as though fully set forth in full herein;

THIRTEENTH COUNT: Title 18 U. S. C. A.
Section 88;

And the said Grand Jurors, upon their oaths, do further present:

That said defendants, at a time and place to said Grand Jurors unknown, did knowingly, willfully, unlawfully and feloniously conspire among themselves, and with other persons to said Grand Jurors unknown, to commit offenses against the laws of the United States, to-wit, to keep in their possession and conceal, and to pass, utter, publish and sell, and attempt to pass, utter, publish and sell, with intent to defraud the United States and other persons to the Grand Jurors unknown, falsely made, forged and counterfeited notes purporting to be issued by a banking association, doing a banking business, authorized and acting under the laws of the United States, to-wit, the Federal Reserve Bank of New York, New York, that is to say cer-

tain falsely made, forged and counterfeited Federal Reserve notes of the Federal Reserve Bank of New York, New York, which said notes had theretofore been falsely made, forged and counterfeited to represent Federal Reserve notes, of the denomination and value of Ten Dollars, as said defendants well knew, and that there- [10] after, and within the Southern Division of the Northern District of California, said defendants then and there being, and during the existence of said conspiracy, one or more of said defendants, as hereinafter mentioned by name, did the following overt acts to effect the object of said conspiracy:

(1) On June 1, 1933, in the City and County of San Francisco, State of California, defendant Salvatore Maugeri purchased a 1921 Studebaker Touring car from Arthur R. Lindburg Company, 1155 Van Ness Avenue, San Francisco;

(2) On November 17, 1934, in the City and County of San Francisco, State of California, defendant Salvatore Maugeri drove an Essex Coupe automobile into the automobile repair shop of Al Logan, 3600 Geary Street, San Francisco;

(3) On November 30, 1934, in the City and County of San Francisco, State of California, defendants Salvatore Maugeri and Gaspare La Rosa met and held a conversation in front of the residence of defendant Salvatore Maugeri, located at 2161 North Point Street, San Francisco;

(4) On November 30, 1934, in the City and County of San Francisco, State of California, de-

defendant Maugeri, accompanied by defendant Gaspare La Rosa, purchased an automobile tire at the store of United Tire Company, 579 Van Ness Avenue, San Francisco;

(5) On December 6, 1934, in the City and County of San Francisco, State of California, defendants Salvatore Maugeri and Jimmie Pasqua entered the automobile repair shop of Al Logan at 4622 Geary Street, San Francisco;

(6) On December 27, 1934, in the City and County of San Francisco, State of California, defendants Salvatore Maugeri, Jimmie Pasqua and Gaspare La Rosa met at the home of defendant Salvatore Maugeri at 2161 North Point Street, San Francisco;

(7) On November 13, 1934, in the City and County of San Francisco, State of California, the defendant Gaspare La [11] Rosa passed a counterfeit Ten Dollar Federal Reserve note on Mrs. W. F. Buchan;

(8) On December 22, 1934, in the City and County of San Francisco, State of California, defendant Jimmie Pasqua passed a counterfeit Ten Dollar Federal Reserve note on Clarence L. Smith.

H. H. McPIKE,

United States Attorney.

Approved as to Form:

R. B. McM.

[Endorsed]: A true bill, C .C. Stevenson, Jr.,
Foreman.

Presented in open court and ordered filed Apr 23,
1935 WALTER B. MALING, Clerk By J. A.
Schaertzer, Deputy Clerk. [12]

[Title of Court.]

AT A STATED TERM of the Southern Division of the United States District Court for the Northern District of California, held at the Court Room thereof, in the City and County of San Francisco, on Friday, the 26th day of April, in the year of our Lord one thousand nine hundred and thirty-five.

PRESENT: the Honorable WALTER C. LINDLEY, United States District Judge.

[Title of Cause.]

Now comes the U. S. Marshal and produced the defendant Salvatore Maugeri on a Bench Warrant. V. C. Hammack, Esq., Asst. U. S. Atty., was present for and on behalf of United States. No one was present as Attorney for defendant. The defendant was duly arraigned and stated his true name to be as charged in the Indictment. On motion of defendant and by consent of Mr. Hammack, it is ordered that the bail of the defendant, Salvatore Maugeri, be and the same is hereby reduced from the sum of \$10,000.00 to the sum of \$5,000.00. Ordered that this case be continued to April 29, 1935, to plead. Further ordered that the defendant in default of bail be remanded into custody of U. S. Marshal and that a mittimus issue herein.

[13]

[Title of Court.]

AT A STATED TERM of the Southern Division of the United States District Court for the Northern District of California, held at the Court Room thereof, in the City and County of San Francisco, on Monday, the 6th day of May, in the year of our Lord one thousand Nine hundred and thirty-five.

PRESENT: the Honorable WALTER C. LINDLEY, United States District Judge.

[Title of Cause.]

This case came on regularly this day for entry of plea of defendant, Gaspare La Rosa, who was present with Attorney, S. A. Abrams, Esq. Said defendant plead "Guilty" to Indictment. Ordered case contd. to May 28, 1935 for judgment.

This case also came on regularly to plead as to defendant, Salvatore Maugeri, who was present with Attorney C. H. Brennan, Esq. Said defendant plead "Not Guilty" to Indictment. Ordered case continued to May 28, 1935 for trial. [14]

[Title of Court.]

AT A STATED TERM of the Southern Division of the United States District Court for the Northern District of California, held at the Court Room thereof, in the City and County of San Francisco, on Tuesday, the 11th day of June, in the year of our Lord one thousand nine hundred and thirty-five.

PRESENT: The Honorable HAROLD LOUDERBACK, District Judge; et al.

[Title of Cause.]

This case came on for judgment as to the defendant Gaspari La Rosa and for trial as to defendants Salvatore Maugeri and Jimmie Pasqua. Wm. E. Licking and Valentine C. Hammack, Esqrs., Asst. U. S. Attys., A. N. Chelleden, Esq., Attorney for Jimmie Pasqua, and Chas. Brennan, Esq., Attorney for the defendant Salvatore Maugeri, and the said defendants were present in the custody of the U. S. Marshal. On motion of Mr. Brennan, Edward J. Dunning, Esq., was associated as Attorney for the defendant Salvatore Maugeri. The following named persons, viz:

1. A. J. Sylvester,
2. Walter A. Smith,
3. Gus Reichman,
4. Leon Shaen,
5. Frank J. O'Neill,
6. W. C. Brumfield,
7. Wm. Allen Taylor,
8. Lawrence Dimmer,
9. Chas. A. Warren,
10. Arthur Cunningham,
11. Ralph R. Strange, Jr.,
12. Thomas Angel,

were examined under oath as to their qualifications, accepted by all parties, and sworn as Jurors to try the [15] issues joined herein. The defendant Jimmie Pasqua stated his true name to be FRANK SCARPATURA. Upon motion of Mr. Hammack,

the witness Mrs. W. F. Buchan was called, failed to answer said calling. Upon further motion of Mr. Hammack, and it appearing that the U. S. Marshal has filed his Return showing service of subpoena upon said Mrs. W. F. Buchan, it is ordered that a writ of attachment, returnable forthwith, be issued for arrest of said witness. Thereafter, the U. S. Marshal produced said Mrs. W. F. Buchan upon said writ of attachment, and upon motion of Mr. Hammack, it is ordered that said Mrs. W. F. Buchan be released from custody of the U. S. Marshal and that she remain upon attendance of this Court for purpose of giving testimony until excused by the Court. Upon motion of A. N. Chellden, Esq., ordered that all witnesses, except Mr. Philip Geanque, be excluded from the Court Room when not on the witness stand. Mr. Hammack made an opening statement to the Court and Jury, and Jewel Simpson, Chas. Vlach, Earl Roberts, Betty Byrnes, Alma Buchan, Clarence Smith, Henry Appiarius, Tony Rosini, Wm. H. Bailey, John Lytle, Ivan Barrett, Ellsworth J. Ramos, Chas H. Matlin, John G. Richwine, Burma A. Traves, Robert S. Tait and Roscoe Thompson were each sworn and examined on behalf of the United States, and the Government introduced its exhibits for identification marked Nos. A, B, C, D, E, F, G, H, I, J. After admonition of the Court to the Jury, the trial of this case was ordered continued to June 12, 1935. [16]

[Title of Court.]

AT A STATED TERM of the Southern Division of the United States District Court for the Northern District of California, held at the Court Room thereof, in the City and County of San Francisco, on Wednesday, the 12th day of June, in the year of our Lord One Thousand Nine Hundred and Thirty-Five.

PRESENT: The Honorable HAROLD LOUDERBACK, District Judge; et al.

[Title of Cause.]

The defendants, Attorneys for all parties, and the Jury heretofore impaneled being present, the trial of this case was resumed. Arche Strange, Robert B. Wells, Al. Logan, Albert Grossman, Jules A. Zimmerlin, Philip E. Geauque and Thomas B. Foster were each sworn and examined on behalf of the United States, and the Government introduced for identification its exhibits marked Nos. K and L and exhibits in evidence marked Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9; and thereupon the case was rested on behalf of United States. Mr. Brennan made a motion to strike the testimony of the Government's witnesses, and made a motion for a directed verdict as to the defendant SALVATORE MAUGERI, and A. N. Chelleden, Esq., made a motion for a directed verdict as to the defendant FRANK SCARPATURA. Mr. Licking made a motion to dismiss Counts 3, 4, 7, 8, 11 and 12, which said motion was granted [17] and the said Counts are hereby

dismissed as to each of the defendants Frank Scarpatura and Salvatore Maugeri. After argument by the parties upon the motions for directed verdict, it is ordered that the said motions be and the same are hereby denied. The defendant Salvatore Maugeri rested. Mr. Chellden made an opening statement to the Court and Jury, on behalf of the defendant Frank Scarpatura. Isadore Costanzo was sworn as an Interpreter, Frances Scardocci was sworn and examined thru said Interpreter; and Frank Scarpatura was sworn and testified on his own behalf; and said defendant rested. In rebuttal, Arche Strange was recalled and testified on behalf of the Government, and the case was then rested on behalf of the United States. After admonition of the Court to the Jury, the trial of this case was continued to June 13, 1935. Further ordered that judgment as to the defendant La Rosa be and the same is hereby continued to June 13 1935 at 10 a. m. [18]

[Title of Court.]

AT A STATED TERM of the Southern Division of the United States District Court for the Northern District of California, held at the Court Room thereof, in the City and County of San Francisco, on Thursday, the 13th day of June, in the year of our Lord one thousand nine hundred and thirty-five.

PRESENT: The Honorable HAROLD LOUDERBACK, DISTRICT JUDGE; et al.

[Title of Cause.]

The defendants, Attorneys for respective parties, and the Jury heretofore impaneled being present, the trial of this case was this day resumed. Mr. Brennan, on behalf of the defendant Salvatore Maugeri, and Mr. Chelleden, on behalf of the defendant Jimmie Pasqua, etc., each renewed motions to strike testimony and their motions for directed verdicts, which said motions were ordered denied. After argument by Attorneys for respective parties and the instructions of the Court to the Jury, the Jury retired at 4 o'clock p. m., to deliberate upon its verdict. At 9:15 p. m., the Jury returned into Court for reading of testimony of the witness Roscoe Thompson, which was read, and again retired at 9:25 p. m. At 10:20 p. m., the Jury again returned into Court and upon being asked if it had agreed upon a verdict, answered that it had and presented the Court with its [19] verdict, which was read and ordered recorded, as follows: "We, the Jury, find as to the defendants at the bar, as follows: Salvatore Maugeri, Not Guilty, Count 1; Not Guilty, Count 2; Not Guilty, Count 5; Not Guilty, Count 6; Not Guilty, Count 9; Not Guilty, Count 10; Guilty Count 13. Jimmie Pasqua, true name Frank Scarpatura, Guilty, Count 1; Guilty, Count 2; Guilty, Count 5; Guilty, Count 6; Guilty, Count 9; Guilty, Count 10; Guilty, Count 13. Gus Richman, Foreman."

The Jurors, upon being asked if said verdict was theirs, each answered that it was. Ordered

said Jurors excused until further notice. Further ordered that the U. S. Marshal furnish meals for twelve (12) Jurors and two (2) Bailiffs and/or Marshals.

The Court proceeded to judgment as to the defendant Gaspare La Rosa. Mr. Abrams, on behalf of said defendant, made a motion for probation, which said motion was ordered denied. After hearing said Attorneys, and Agent Philip E. Geauque, it is ordered that the said Gaspare La Rosa, for the offense of which he stands convicted herein, be imprisoned for the term of four (4) years upon each of Counts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 of the Indictment and pay a fine in the sum of One (\$1.00) Dollar as to each of said Counts, and that in default of payment of fine defendant be further imprisoned until said fine is paid or defendant is otherwise discharged in due course of law; and that said defendant be imprisoned for the term of two (2) years upon the 13th Count of said Indictment, said terms of imprisonment to run concurrently, such imprisonment to be in a U. S. Penitentiary to be designated by the Attorney General of the United States. Ordered that said defendant stand committed and that Commitment issue accordingly, as detailed in Judgment Book. Further ordered, upon motion of Mr. Abrams, that said defendant have a five (5) day stay of execution of [20] judgment.

The Court then proceeded to judgment as to the defendant Jimmie Pasqua, true name Scarpatura.

After hearing Mr. Chellden and Mr. Licking, it is ordered that the said defendant JIMMIE PASQUA, TRUE NAME FRANK SCARPATURA, for the offense of which he stands convicted herein, be imprisoned for the term of seven (7) years and pay a fine in the sum of One (\$1.00) Dollar upon each of Counts 1, 2, 5, 6, 9 and 10, and that in default of payment of fine defendant be further imprisoned until said fine is paid or defendant is otherwise discharged in due course of law; and that said defendant be imprisoned for the term of two (2) years upon Count 13, such imprisonment to be in a U. S. Penitentiary to be designated by the Attorney General of the United States, said terms of imprisonment to run concurrently. Upon motion of Mr. Chellden, ordered that said defendant have a five (5) day stay of execution of judgment. Ordered that said defendant stand committed and that a Commitment issue accordingly, as detailed in judgment book.

The Court then proceeded to judgment as to the defendant Salvatore Maugeri. Mr. Brennan made a motion for arrest of judgment, which said motion was ordered denied and an exception noted. Mr. Brennan then made a motion for new trial, which said motion was ordered denied, and an exception noted. Ordered that the said defendant SALVATORE MAUGERI, for offense of which he stands convicted herein, be imprisoned for the term of two (2) years and pay a fine in the sum of Five Thousand (\$5,000.00) Dollars upon the 13th Count

of Indictment, and that in default of payment of fine defendant be further imprisoned until said fine is paid or defendant is otherwise discharged in due course of law, such imprisonment to be in a U. S. Penitentiary to be designated by the Attorney General of the United States. Ordered that said defendant stand committed and that a Commitment issue accordingly, as detailed in [21] Judgment Book. Further ordered, upon motion of Mr. Brennan, that said defendant have a five (5) day stay of execution. [22]

[Title of Court and Cause.]

We, the Jury, find as to the defendants at the bar as follows:

SALVATORE MAUGERI	Not Guilty Count 1
	Not Guilty Count 2
 Count 3
 Count 4
	Not Guilty Count 5
	Not Guilty Count 6
 Count 7
 Count 8
	Not Guilty Count 9
	Not Guilty Count 10
 Count 11
 Count 12
	Guilty Count 13

JIMMIE PASQUA, true name

FRANK SCARPATURA	Guilty	Count 1
	Guilty	Count 2
.....	Count	3
.....	Count	4
	Guilty	Count 5
	Guilty	Count 6
.....	Count	7
.....	Count	8
	Guilty	Count 9
	Guilty	Count 10
.....	Count	11
.....	Count	12
	Guilty	Count 13

Gus Richman, Foreman [23]

[Endorsed]: Filed at 10:20 p. m. Jun. 13, 1935.
Walter B. Maling, Clerk. By Harry L. Fouts,
Deputy Clerk. [24]

District Court of the United States Northern District of California. Southern Division.

No. 25364-L

Conv. Viol. 18 USCA Secs. 263 & 265 18 USCA 88
THE UNITED STATES OF AMERICA

vs.

SALVATORE MAUGERI & JIMMIE PASQUA,
true name FRANK SCARPATURA.

JUDGMENT ON VERDICT OF GUILTY

Wm. E. Licking and V. C. Hammack, Assistant United States Attorneys and the defendants with their counsel came into Court. The defendants were duly informed by the Court of the nature of the Indictment filed on the 23rd day of April, 1935, charging them with the crime of violating 18 USCA Secs. 263 and 265 and 18 USCA 88 of their arraignment and plea of Not Guilty; of their trial and the verdict of the Jury on the 13th day of June, 1935, to-wit:

“We, the Jury, find as to the defendants at the bar as follows:

SALVATORE MAUGERI—Not Guilty Count 1;
Not Guilty Count 2; Not Guilty Count 5; Not Guilty Count 6; Not Guilty Count 9; Not Guilty Count 10; Guilty Count 13;

JIMMIE PASQUA, true name FRANK SCARPATURA—Guilty Count 1; Guilty Count 2; Guilty Count 5; Guilty Count 6; Guilty Count 9; Guilty Count 10; Guilty Count 13;

Gus Richman, Foreman”

The defendants were then asked if they had any legal cause to show why judgment should not be entered herein and no sufficient cause being shown or appearing to the Court, and the Court having denied a Motion for New Trial and a Motion in Arrest of Judgment; thereupon the Court rendered its Judgment;

THAT, WHEREAS, the said SALVATORE MAUGERI & FRANK SCARPATURA having been duly convicted in this Court of the crime of violating 18 USCA Secs. 263 & 265 and 18 USCA 88;

IT IS THEREFORE ORDERED AND ADJUDGED that the said *FRANK SCARPATURA* be imprisoned in a United States Penitentiary to be designated by the Attorney General of the United States [25] for the period of SEVEN (7) YEARS and pay a fine in the sum of ONE (\$1.00) DOLLAR as to each of Counts 1, 2, 5, 6, 9 and 10 and be imprisoned for the period of TWO (2) YEARS as to Count 13; Further ordered that in default of the payment of said fine said defendant so in default be further imprisoned in the U. S. Penitentiary until said fine be paid or until he be otherwise discharged in due course of law; Further ordered said terms of imprisonment run concurrently. Further ordered that defendant have a five day stay of execution of judgment. *SALVATORE MAUGERI* be imprisoned in a United States Penitentiary to be designated by the Attorney General of the United States for the period of TWO (2)

YEARS and pay a fine in the sum of FIVE THOUSAND (\$5,000.00) DOLLARS as to Count 13; Further ordered that in default of the payment of said fine said defendant be further imprisoned in the U. S. Penitentiary until said fine be paid or until he be otherwise discharged in due course of law. Further ordered said defendant have a five day stay of execution.

Entered this 13th day of June, 1935.

WALTER B. MALING, Clerk
By C. M. Taylor, Deputy Clerk.

[Endorsed]: Entered in Vol. 29 Judg. and Decrees at Pages 603-604. [26]

[Title of Court and Cause.]

NOTICE OF APPEAL

Name and address of Appellant; SALVATORE MAUGERI, 2161 North Point Street, San Francisco, California.

Name and address of Appellant's attorney: CHARLES H. BRENNAN, Esquire, Suite 821, 315 Montgomery Street, San Francisco, California.

Offense: Violation of Section 88 of Title 18 U. S. C. A. said defendant did knowingly, wilfully and unlawfully conspire among themselves and other persons to said Grand Jury unknown to commit certain offenses against the laws of the United States, to-wit: to keep in their possession and conceal, and to pass, utter, publish and sell, and attempt to pass, utter, publish and sell with intent

to defraud the United States and other persons to the Grand Jurors unknown, falsely made, forged and counterfeited notes purporting to be issued by a banking association, doing a banking business, authorized and acting under the laws of the United States, to wit, the Federal Reserve Bank of New York, New York, that is to say, certain falsely made, forged and counterfeited federal reserve notes of the Federal Reserve Bank of New York, New York, which said notes had theretofore been falsely made, forged and counterfeited to represent Federal Reserve notes of the denomination and value of Ten Dollars, as said defendants well knew, and that thereafter, and within the division and district aforesaid, said defendants during the existence of said conspiracy, did the overt acts named in the indictment to effect the objects thereof.

DATE OF JUDGMENT: June 13, 1935.

Description of Judgment or sentence: Guilty upon count Thirteen of said indictment as above set forth, two years in the Federal Penitentiary and fine of Five Thousand (\$5,000.00) Dollars.

Name of Prison where now confined: County jail of the City and County of San Francisco, State of California.

I, the above named Appellant, hereby appeal to the United States Circuit Court of Appeals of the Ninth Circuit from the judgment above mentioned on the grounds set forth below.

1. That the trial court erred in refusing to grant the motion to strike from the record all of

the testimony of the witness F. Jewell Simpson called by the government upon the grounds that the testimony of said witness was incompetent, irrelevant and immaterial and hearsay as to appellant; upon the further ground that there was no conspiracy proven in said action; that said motion was made at the time said witness testified and also at the close of the government's case and at the close of all of the evidence in the case.

2. That the trial court erred in refusing to grant the same motion made at the same time as to the witness Mrs. Buchan.

3. That the trial court erred in refusing to strike from the record the testimony of the witness Charles Black for the reasons and at the time stated in reference to the witness Simpson.

4. That the trial Court erred in refusing to strike from the record the testimony of the witness Earl Roberts for the reasons and at the times as above stated as to the witness Simpson.

5. That the trial Court erred in refusing to strike from the record the testimony of the witness Mrs. Byrnes for the same reasons.

6. That the trial Court erred in refusing to strike from the records the testimony of the witness Clarence Smith for the same reasons.

7. That the trial Court erred in refusing to strike from the record the testimony of the witness Henry Apparias for the same reasons.

8. That the trial Court erred in refusing to strike from the record the testimony of the witness Rosino for the same reasons.

9. That the trial Court erred in refusing to strike from the record the testimony of the witness Wm. H. Bailey for the same reasons.

10. That the trial Court erred in refusing to strike from the record the testimony of the witness Mr. Littell for the same reasons.

11. That the trial Court erred in refusing to strike from the record the testimony of the witness Barrett for the same reasons.

12. That the trial Court erred in refusing to strike from the record the testimony of the witness Elford J. Ramos for the same reasons.

13. That the trial Court erred in refusing to strike from the record the testimony of the witness Chas. A. Matlin for the same reasons.

14. That the trial Court erred in refusing to strike from the record the testimony of the witness John G. Richwine for the same reasons.

15. That the trial Court erred in refusing to strike from the record the testimony of the witness Mr. Travers for the same reasons.

16. That the trial Court erred in refusing to strike from the record the testimony of the witness Mr. Tait for the same reasons.

17. That the trial Court erred in refusing to strike from the record the testimony of the witness Roscoe Thompson for the same reasons.

18. That the trial Court erred in refusing to strike from the record the testimony of the witness Archibald Strange for the same reasons.

19. That the trial Court erred in refusing to strike from the record the testimony of the witness Agent Wells for the same reasons.

20. That the trial Court erred in refusing to strike from the record the testimony of the witness Al Logan for the same reasons.

21. That the trial Court erred in refusing to strike from the record the testimony of the witness Al Grossman for the same reasons.

22. That the trial Court erred in refusing to strike from the record the testimony of the witness Jules A. Zimmerman for the same reasons.

23. That the trial Court erred in refusing to strike from the record the testimony of the witness Mr. Geaque for the same reasons.

24. That the trial Court erred in refusing to strike from the record the testimony of the witness Thomas B. Foster for the same reasons.

25. That the trial Court erred in failing to grant the defendant's motion for a directed verdict of "not guilty" made at the conclusion of the prosecution's case, for the reason that the evidence in said case is totally insufficient to support a verdict of "guilty" and that all of the evidence against the defendant Maugeri taken in the strongest possible construction and in favor of the government fails to prove the charge laid in the indictment and is susceptible of two constructions, one pointing to the innocence of said defendant and therefor has lost all probative value and that it was error that the trial Court allow the case against the defendant Maugeri to go to the Jury.

25. That the trial Court erred in refusing to grant the motion of the defendant Maugeri for a directed verdict made at the conclusion of all of the evidence in the case for the reason that taking all of said evidence in said case, it is insufficient as a matter of law to support a verdict of "guilty."

26. That the Court erred in not instructing the jury to return a verdict of "not guilty" upon all counts in favor of appellant. That the evidence is insufficient as a matter of law to support a verdict of "guilty", against appellant.

27. That the evidence is totally insufficient to support a verdict of the Jury as to the appellant in that it fails to show that appellant had any knowledge of any unlawful purpose whatsoever when he did any of the acts which it is alleged were done in participation of the conspiracy and that in order to be a member of an unlawful conspiracy it is necessary that both knowledge and participation be proven.

27. That the Court erred in refusing to grant the defendant's motion for arrested judgment for the reasons above stated.

SALVATORE MAUGERI,

Appellant.

CHARLES H. BRENNAN,

Attorney for Appellant.

[Endorsed]: Filed Jun. 18, 1935. Walter B. Maling, Clerk.

[Endorsed]: Filed Jun. 21, 1935. Paul P. O'Brien, Clerk.

[Title of Court and Cause.]

ASSIGNMENTS OF ERROR

Comes now the defendant SALVATORE MAUGERI by his attorneys, CHARLES H. BRENNAN and EDMUND J. DUNNING and in connection with his appeal herein assigns the following errors which he avers occurred in the proceedings and trial of said cause which were excepted to by him and upon which he relies to reverse the judgment entered against him.

I.

That the District Court erred in admitting the testimony of Mrs. Jewel Simpson, a witness called on behalf of the prosecution, for the reason that the same is incompetent, irrelevant and immaterial and not bind upon the defendant SALVATORE MAUGERI and hearsay as to that defendant; and the District Court further erred in denying the defendant's motion to strike the testimony of said witness from the record.

II

That the District Court erred in admitting the testimony of the witness Charles Blach, called for the prosecution, on the ground that the testimony of said witness was incompetent, irrelevant and immaterial as to the defendant MAUGERI and hearsay as to [28] him and not within the issues laid in the indictment; and further that the Dis-

trict Court erred in refusing to strike the testimony of said witness from the record as to said defendant SALVATORE MAUGERI.

III

That the District Court erred in admitting the testimony of the witness EARLE ROBERTS called on behalf of the prosecution for the same reasons and that the District Court further erred in denying the motion of said defendant SALVATORE MAUGERI to strike the testimony of said witness Roberts from the record.

IV

That the District Court erred in admitting the testimony of Mrs. Betty Byrnes, called as a witness of the prosecution, for the same reasons; and that the District Court further erred in denying the motion of said defendant MAUGERI to strike the testimony of said witness from the record.

V

That the District Court erred in admitting the testimony of Mrs. Alma Buchan, called as a witness for the prosecution, for the same reasons; and that the District Court further erred in refusing to strike the testimony of said witness from the record.

VI

That the District Court erred in admitting the testimony of the witness Clarence Smith called as

a witness on behalf of the prosecution for the same reasons; and that the District Court further erred in refusing to strike the testimony of the said witness Smith from the record as to the defendant MAUGERI.

VII

That the District Court erred in admitting the testimony of the witness Henry D. Appiarius, called as a witness of the prosecution, for the same reasons; and that the District Court further erred in refusing the defendant MAUGERI'S motion to strike [29] said testimony from the record.

VIII

That the District Court erred in admitting the testimony of the witness HENRY D. APPIARIUS as to the identification of the defendant SALVATORE MAUGERI, for the reason that said testimony was incompetent, irrelevant and immaterial and not within the issues laid in this indictment.

IX

That the District Court erred in allowing the witness HENRY D. APPIARIUS' testimony as to instructions that he received from the Secret Service Department, on the ground that the same was incompetent, irrelevant, immaterial and hearsay.

X

That the District Court erred in admitting all of the testimony of the witness HENRY D. AP-

PIARIUS; and further erred in denying the motion of the defendant MAUGERI to strike the testimony from the record.

XI

That the District Court erred in admitting the testimony of the witness TONY ROSINI as to the defendant MAUGERI and in refusing the motion of the defendant MAUGERI to strike said testimony from the record.

XII

That the District Court erred in admitting the testimony of the witness WILLIAM H. BAILEY against the defendant MAUGERI; and that the District Court further erred in refusing to strike the testimony of said WILLIAM H. BAILEY from the record.

XIII

That the District Court erred in admitting the testimony of JOHN LYTLE, called as a witness for the prosecution, against the defendant MAUGERI and that the District Court further erred in refusing to strike the testimony of said witness from the record. [30]

XIV

That the District Court erred in admitting the testimony of the witness Ivan Barrett, called as a witness for the prosecution, as against the defendant MAUGERI; and that the District Court further erred in refusing to strike the testimony of

said witness BARRETT from the record as against said defendant.

XV

That the District Court erred in admitting the testimony of ELSWORTH RAMOS, called as a witness on behalf of the prosecution as against the defendant MAUGERI; and that the District Court further erred in denying the motion of defendant MAUGERI to strike the testimony of said witness from the record as against said defendant.

XVI

The the District Court erred in admitting the testimony of the witness CHARLES H. MATLIN, called as a witness on behalf of the prosecution as to the defendant MAUGERI; and that the District Court further erred in denying the motion of the defendant MAUGERI to strike the testimony of said witness from the record.

XVII

That the District Court erred in admitting the testimony of the witness JOHN H. RICHWINE, called as a witness for the prosecution, as against the defendant MAUGERI; and that the District Court further erred in denying the motion of the defendant MAUGERI to strike the testimony of said witness from the record as to said defendant.

XVIII

That the District Court erred in admitting the testimony of BURMA A. TRAVIS, called as a

witness on behalf of the prosecution as against the defendant MAUGERI; and that the District Court further erred in refusing the motion of the defendant MAUGERI to strike the testimony of said witness from the record. [31]

XIX

That the District Court erred in admitting the testimony of the witness ROBERT S. TAIT, called as a witness on behalf of the prosecution as against the defendant MAUGERI; and that the District Court further erred in refusing to strike the testimony of said witness from the records.

XX

That the District Court erred in admitting the testimony of the witness ROSCOE THOMPSON, called as a witness on behalf of the prosecution as against the defendant MAUGERI; and that the District Court further erred in denying the motion of the defendant MAUGERI to strike the testimony of said witness from the record.

XXI

That the District Court erred in admitting the testimony of the witness ARCH A. STRANGE as against the defendant MAUGERI; and that the District Court further erred in denying the motion of the defendant MAUGERI to strike the testimony of the said witness from the record.

XXII

That the District Court erred in admitting the testimony of the defendant ROBERT B. WELLS, called as a witness on behalf of the prosecution; and that the District Court further erred in denying the motion of the defendant MAUGERI to strike the testimony of said witness from the record in said action.

XXIII

That the District Court erred in admitting the testimony of the witness AL LOGAN, called as a witness on behalf of the prosecution as against the defendant MAUGERI; and that the District Court further erred in refusing the motion of the defendant MAUGERI to strike from the record the testimony of said witness.

XXIV

That the District Court erred in admitting the testimony of the witness ALBERT GROSSMAN, called as a witness on behalf of [32] the prosecution; and that the District Court further erred in refusing the motion of the defendant to strike from the record the testimony of said witness.

XXV

That the District Court erred in admitting the testimony of the witness JULES A. ZIMMERLIN, called as a witness on behalf of the prosecution and that the District Court further erred in refusing the motion of the defendant MAUGERI to strike

the testimony of said witness from the record in said action.

XXVI

That the District Court erred in admitting the testimony of the witness PHILIP E. GEAUQUE, called as a witness on behalf of the prosecution; and that the District Court further erred in denying the motion of the defendant MAUGERI, to strike the testimony of said witness from the record in said action.

XXVII

That the District Court erred in admitting the testimony of the witness THOMAS B. FOSTER, called as a witness on behalf of the prosecution, as against the defendant MAUGERI; and that the District Court further erred in denying the motion of the defendant MAUGERI, to strike the testimony of said witness from the record.

XXVIII

That the District Court erred in admitting into evidence Government's Exhibit No. 1 in evidence as against the defendant MAUGERI.

XXIX

That the District Court erred in admitting into evidence the United States Exhibit No. 2 in evidence as against the defendant MAUGERI.

XXX

That the District Court erred in admitting into evidence [33] United States Government Exhibit

No. 3 in evidence as against the defendant MAUGERI.

XXXI

That the District Court erred in admitting Government's Exhibit No. 4 in evidence as against the defendant MAUGERI.

XXXII

That the District Court erred in admitting in evidence Government's Exhibit No. 5 in evidence as against defendant MAUGERI.

XXXIII

That the District Court erred in admitting in evidence Government's Exhibit No. 6 in evidence as against the defendant MAUGERI.

XXXIV.

That the District Court erred in admitting in evidence United States Government's exhibit No. 7 in evidence as against the defendant MAUGERI.

XXXV

That the District Court erred in admitting United States Government's exhibit No. 8 in evidence as against the defendant MAUGERI.

XXXVI

That the District Court erred in denying the motion of counsel for defendant MAUGERI to strike from the record the testimony of each and every witness produced by the Government and

each and every exhibit introduced in evidence against said defendant.

XXXVII

That the District Court erred in refusing the motion of counsel for the defendant, MAUGERI for a directed verdict of "Not Guilty" at the close of the government's case for the reason and upon the ground that from an examination of all of the Government's testimony in said case there was not sufficient evidence introduced to warrant the submission of said case to the Jury and upon the [34] further ground that the evidence adduced by the Government was as consistent with the innocence of said defendant as with his guilt and therefore totally insufficient to warrant the submission of the case to the Jury.

XXXVIII

That the District Court erred in refusing to grant said motion to strike from the record all of the testimony of each and every witness produced on behalf of the United States Government made at the conclusion of all the testimony in the trial.

XXXIX

That the District Court erred in denying the motion of the defendant MAUGERI for a directed Verdict of "Not Guilty" made at the conclusion of all of the evidence in the case for the reason and upon the ground that from an examination of all of the Government's testimony in said case

there was not sufficient evidence introduced to warrant the submission of said case to the Jury and upon the further ground that the evidence adduced by the Government was as consistent with the innocence of said defendant as with his guilt and therefore totally insufficient to warrant the submission of the case to the Jury.

XXXX

That the District Court erred in denying the motion for a new trial made on behalf of the defendant MAUGERI, for the reason and upon the ground that from an examination of all of the Government's testimony in said case there was not sufficient evidence introduced to warrant the submission of said case to the Jury and upon the further ground that the evidence adduced by the Government was as consistent with the innocence of said defendant as with his guilt and therefore totally insufficient to warrant the submission of the case to the Jury.

XXXXX

That the District Court erred in denying the motion for [35] arrested judgment made on behalf of the defendant MAUGERI, for the reason and upon the ground that from an examination of all of the Government's testimony in said case there was not sufficient evidence introduced to warrant the submission of said case to the Jury and upon the further ground that the evidence adduced by the Government was as consistent with the

innocence of said defendant as with his guilt and therefore totally insufficient to warrant the submission of the case to the Jury.

WHEREFORE the defendant prays that the judgment of said District Court against him be reversed and the said cause be remanded to the District Court with instructions to dismiss the same, and for such other and further relief as to the Court may seem proper.

CHARLES H. BRENNAN

EDMUND J. DUNNING

[Endorsed]: Service of the within Assignment of Errors by copy admitted this 16th day of July, 1935.

H. H. McPIKE,

Attorney for Plaintiff. [27]

[Endorsed]: Filed Jul. 16, 1935. Walter B. Maling, Clerk. [36]

[Title of Court and Cause.]

ORDER SETTLING

BILL OF EXCEPTIONS.

Pursuant to stipulation of Counsel, IT IS HEREBY ORDERED that that certain document of sixty pages, lodged with the Clerk of this Court on the Fifteenth day of July, 1935 entitled Bill of Exceptions, of the defendant SALVATORE MAUGERI, may be and the same is hereby considered to truthfully set forth the proceedings had upon the trial of the defendant SALVATORE MAUGERI and that it contains in narrative form all of the testimony taken upon the trial together with all of the objections made by said defendant and the rulings thereon and the exceptions noted by said defendant

and it may be and is hereby settled, allowed, certified and approved as the Bill of Exceptions in the above entitled matter;

AND IT IS FURTHER ORDERED that the Clerk of said Court file the same as a record in said case and transmit it to the Honorable Circuit Court of Appeals for the Ninth Circuit.

DATED: July 16th, 1935.

HAROLD LOUDERBACK

Judge of the United States
District Court. [38]

[Title of Court and Cause.]

BILL OF EXCEPTIONS.

Be it remembered that on the Eleventh day of June, 1935 at the hour of ten o'clock, in the forenoon thereof, the above entitled case was duly called for trial before the Honorable Harold Louderback, one of the Judges of the above entitled Court. The plaintiff was represented by William E. Licking, Esquire, Assistant United States Attorney and Valentine C. Hammack, Esquire, Assistant United States Attorney; and the defendant SALVATORE MAUGERI, was represented by Charles H. Brennan, Esquire and Edmund J. Dunning, Esquire. That the defendant and his attorneys were present in Court;

And that thereupon the Court proceeded to impanel a jury to try said cause and the Jury being called came and were then and there chosen and sworn to try the issues.

That thereupon the plaintiff called as a witness one

MRS. JEWEL SIMPSON,

who testified as follows:

My name is Mrs. Jewel Simpson. I reside at 201 Steiner [39] Street. I am engaged in business. My business is a soda fountain and grocery. I was engaged in that business on September 28, 1934. I was in my place of business on that date. I had occasion on that date to receive in the course of my business a ten dollar bill. I have seen that bill again. The bill was returned the next morning by the bank. Yes, I have seen that bill that you have shown to me and it was received at the best of my recollection on that date. I placed my initials on that bill. The person who passed that bill is in the Courtroom now. He is the small man with the grey suit. I believe he wore a small mustache at the time. I am positive that he wore a little mustache. He is the man that I received the bill from.

The record shows that the witness identified the defendant, Jimmie Pasqua, true name is given as Frank Scarpatura. The bill is received for the purpose of identification, marked Exhibit No. 1. The number appearing on that bill is B48291638A.

Thereupon the following proceedings were had:

Mr. BRENNAN: "Now, if your Honor please, I move that the testimony of this witness, as far as the defendant Maugeri is concerned, be stricken

(Testimony of Mrs. Jewel Simpson.)

from the record, upon the ground that it is immaterial, irrelevant, and incompetent, and hearsay as to the defendant Maugeri.”

Mr. HAMMACK: “I will say that the same will be connected up later.”

The COURT: “You will make the assurance you will connect it up by other evidence with the defendant Maugeri?”

Mr. HAMMACK: “Yes, as an aider and abettor.”

Mr. BRENNAN: “May I make the further objection that no conspiracy has been established.”

The COURT: “Of course, I have the assurance of the United [40] States District Attorney that he will connect it up; all the evidence cannot be put on at once; it is only a matter of order of proof. I have a right to receive the proof upon the assurance of the District Attorney that he will connect it up. Of course, if he fails you are in a position then to renew your motion to strike at the conclusion of the trial. At this time I will deny the motion upon that assurance. I presume that you also give the assurance that you are going to prove the conspiracy charge.”

Mr. HAMMACK: “Yes.”

Mr. BRENNAN: “Of course, with perfect respect for the Court and its ruling, might I suggest that no reference has been made in the testimony of this witness whatsoever to the defendant Maugeri.”

The COURT: “The point is this, the Government is trying to present its case on the first count.

(Testimony of Mrs. Jewel Simpson.)

The first count gives the number of a bill similar to the one that has been offered for identification. It is simply a matter of proof, and if the Government fails to put in sufficient evidence upon which the connection is made your motion to strike out would have to be granted, but at this time I cannot grant it, because I have to give the United States Attorney a chance to establish, if he can establish by such evidence in his hands, in the substantive counts that your client was an accessory, and in the conspiracy count he was one of the conspirators."

Mr. BRENNAN: "Might my motion run both to the indictment in its entirety, and as to counts 1 to 12 in particular, and count 13 in particular?"

The COURT: "Your request is placed in the record in the form of your objection." [41]

The Exception is noted and is assigned as
Exception No. 1.

Cross Examination

Mrs. Jewel Simpson

By A. N. Cheliden, counsel for defendant
Scarpatura.

I did not know that the ten dollar bill was counterfeited. I received it early in the evening, say around 6:30 or 8:00 o'clock, around that time. There were no suspicious circumstances at the time that I received it. Not exactly. We didn't have any other Ten Dollar bills to deposit at the bank the next day. I remembered that the young man came

(Testimony of Mrs. Jewel Simpson.)

into the store and sort of hesitated and asked for a package of cigarettes. I recall that he gave me the ten dollar bill. I was very busy at the store that night. I have never seen a counterfeited bill before. I remembered him, when the bank told me that the bill was counterfeited. I can remember that man asking for a package of cigarettes. He had on a little darker suit. I could not swear that his coat was the same color as his trousers. He had a hat on. I do not remember the color of his hat. I remembered that he had a mustache.

Thereupon the prosecution called the witness

CHARLES BLACH,

and suggested that Mr. La Rosa be brought into the Court for the purpose of identification. The witness Blach thereupon testified:

My occupation is that of a service station operator. A service station operator in El Cerrito, Contra Costa County. I was employed there on the eighteenth day of November, 1934. I had a conversation with two men at my station. I see these men in the Courtroom. They are the gentlemen right over here. The fellow in the light suit, referring to the defendant Jimmy Pasqua who has given his true name as Frank Scarpatura. I conversed with them. The gentleman over here, the second one, the fellow in the brown suit. [42]

(Testimony of Charles Blach.)

The witness identified the defendant Gaspare La Rosa as the other man.

They were driving an Essex Coupe. I looked at the coupe at that time. I took the number of it. When they passed me the bill I got suspicious. I got suspicious, they had too much money. They had a whole pocket full of money. They took the bill out and handed it to me. It didn't look good to me, so I walked into the station and told them when I came out that I could not cash it. They paid me in silver. I took the number of the car, 3 J826. The two men in the car had a shotgun between them. I do not know what kind of a shotgun. I could see it from where I was, I could see it from where I put the gas in, when I walked around on the side. They were dressed up. I did not think they were going hunting. They were dressed up.

The witness is shown the picture of the automobile.

That is the car all right. It was in the possession of La Rosa and Pasqua at that time. There were only these two men in that car.

Photograph of the car is offered for identification. Government's Exhibit "B" for identification.

Cross Examination

Charles Blach

By A. N. Cheliden

La Rosa was driving the car. La Rosa asked for the gas. La Rosa gave me the bill. The other man did not say anything.

(Testimony of Charles Blach.)

Thereupon the following proceedings were had.

Mr. BRENNAN: "No question on behalf of the defendant Maugeri." At this time if your honor please, I renew my motion or rather make my motion with reference to the testimony of the witness Blach, who just left the stand as I did upon the occasion of [43] the witness Simpson, first on the stand. No mention having been made of the defendant Maugeri in the testimony of the last witness, and I make the motion upon the grounds that have been heretofore mentioned by me."

The COURT: "I presume that this evidence is directed to the conspiracy count?"

Mr. HAMMACK: "Yes, directed to the conspiracy and aiding and abetting, and will properly be connected up with the substantive count."

The COURT: "I will deny your motion at this time."

Mr. BRENNAN: "May we have, respectfully, an exception?"

The COURT: "I will not be able to pass upon this until such time as the United States Attorney advises me he has presented all the evidence for the purpose of connecting it up."

Exception No. 2.

Thereupon,

EARL ROBERTS

was called as a witness on behalf of the plaintiff and testifies as follows:

My name is Earl Roberts. I am in the service station business at that time. I am not doing anything now. My service station is located at 18th and Potrero Avenue. I was located there on the twenty-third day of November, 1934. I received the ten dollar bill of that date. I put my initials on that bill. I do not remember anything about the car or the person at the time that the bill was received, only that it was a BUICK Coupe.

Mr. HAMMACK: Q. How many persons were in the ESSEX coupe, if you remember?

A. There were two.

Q. Did you have occasion to take the number of the ESSEX coupe?

A. I did.

Q. Will you state what the number of that coupe was. [44]

A. I do not remember now.

Q. Did you make a note of it at that time?

A. I did.

Q. Have you that note?

A. No

Q. Did you afterwards see that coupe?

A. I did.

Q. Where?

A. In the garage across the street from the post office.

(Testimony of Earl Roberts.)

Q. Who was with you at that time?

A. Mr. Geauque.

The COURT: "That is the representative of the United States government seated behind Mr. Hammack. Is that Mr. Geauque?"

A. Yes.

Mr. HAMMACK: I will refer you to Government's Exhibit B for identification, a picture, and ask you if you can state whether or not this picture is of the ESSEX coupe which was in your station at that time and place.

A. I could not say whether it was or not.

Q. But will you say, or can you not that the Essex Coupe that came into your service station on the day you received the ten dollar bill was the Essex coupe that you subsequently saw in the garage with Mr. Geauque, is that correct?

A. I could not say.

The Bill is No. B 33494741A.

The bill appertains to the Fifth Count of the indictment.

Mr. Roberts identified the bill. I have my initials on the bill. The bill was passed to me on that occasion. I do not recall who passed it. I do not know whether or not it was passed by the man in that car or not. All I can say is that it looked like the car. The car has the same appearance. I took the license number of the ESSEX car. I do not think it had a 1935 license plate on at the time, if I recall. I made the notation on a piece of paper and

(Testimony of Earl Roberts.)

I wrote it on the bill. Those are my initials on the bill. At the time I received the bill, it was very crisp, but when I identified it, it was faded. It had gone through several tests. [45]

The COURT: "You think that has been removed in some way?"

Yes. I made my notations on one end of the bill. I made them in pencil. I do not see that at this time.

Mr. HAMMACK: No further questions.

Thereupon the following proceedings were had:

Mr. BRENNAN: "Now, if your Honor please, with reference to the defendant Maugeri, I desire to make the same motion that I previously made in the case of the previous witnesses.

The COURT: "The same ruling."

Mr. BRENNAN: "In the interest of time I will not repeat the reasons for my motion and will except to your Honor's ruling as in the case of the other witnesses.

The COURT: "Let us proceed."

Exception No. 3

Cross Examination

Earle Roberts

By Mr. Charles H. Brennan.

This is the bill I identified. I identify it by my initials. I placed the number of the machine that called at my service station that day, on the bill. I could not indicate where I placed the number,

(Testimony of Earl Roberts.)

but I am satisfied I placed the number of the machine down. I think it was a 1935 license. It had a 1935 license upon it at the time I saw it in the garage across the street. I have the impression that they were not the same license plates. There was much discussion about that bill. I kept it in my possession for several days. I was at home, sitting at the supper table and there was quite a discussion about it. Some of the folks thought it was good and some not, and there was a friend there that thought it was good and she would swear by it, so she took it down and gave it to somebody and it bounced back. I do not know who she gave it to. She did not give to the authorities. I do not remember that she gave it to the police. The office of the secret service called me up [46] and asked me to come down and see them. The next time I saw the bill it was in the office of the secret service. It did not have the number of the license plate of the machine as I had written it. I don't know whether the number was erased or not. It was not on the bill when I saw it in the possession of the Secret Service. I did not examine it at that time. The bill has not been in my possession since I saw it in the possession of the Secret Service people. The number that was on it as I wrote it is not on there now.

Mr. BRENNAN: "No further questions."

Thereupon

MRS. BETTY BYRNES

was called as a witness on behalf of the plaintiff, sworn and testified as follows:

I live at No. 260 Octavia Street. My husband is engaged in the grocery business. He sells groceries, wine and beer. I was engaged in that business on November 30, 1934. I was in the store on that date. A ten dollar bill was received by me or by Mr. Byrnes in my presence on that date. I have seen that ten dollar bill that you show me, before. My initials appear upon it. That bill was received by Mr. Byrnes. It was received in my presence. I received it from the man over there. I will walk over and point to the man.

Witness then identified the defendant La Rosa, under indictment, but not on trial, as the person passing the ten dollar bill.

The bill was marked for Identification. The number of the bill was B 33494741 A.

Mr. LICKING: "These counterfeit bills have the same number on them."

The COURT: "I am not questioning that. What count is that?"

Mr. HAMMACK: "7 and 8."

The COURT: "That will be received as Government's Exhibit D [47] for identification."

The bill is marked Exhibit D for identification. Thereupon the following proceedings were had.

(Testimony of Mrs. Betty Byrnes.)

Mr. BRENNAN: "No questions on cross-examination, so far as the defendant Maugeri is concerned. At this time I desire to renew the motions that I previously made with reference to the testimony of the other witnesses, and I assume that there will be the same ruling."

The COURT: "I will deny the motion on the same grounds."

Mr. BRENNAN: "May the record respectfully show an exception?"

The COURT: "The record will so show."

Exception No. 4

Thereupon

MRS. ALMA BUCHAN

was called as a witness for the plaintiff and testified as follows:

My name is Alma Buchan. I am also known as Mrs. W. F. Buchan. W. F. Buchan is my husband. I am in the bakery business. My bakery is located at Lyon and Fulton. I was so employed on the thirteenth day of November, 1934. I took in a ten dollar bill of that date. The ten dollar bill that you show me was the ten dollar bill that I received. These are my initials appearing on it right there. I identify that bill by my initials. I can identify the person who gave me that bill in the courtroom.

(Testimony of Mrs. Alma Buchan.)

Mr. HAMMACK: "Might I ask that the defendant La Rosa be again brought into the courtroom?"

The COURT: "Yes. What is the number appearing on that?"

Mr. HAMMACK: "The number is B 32288534A."

That is the fellow. (Identifying the witness just brought in).

The record shows that she identified Gaspare La Rosa, who is charged as one of the defendants, La Rosa, who has pleaded guilty and is not on [48] trial at this time.

The bill is thereupon offered for identification and received as Government's exhibit E for identification.

Thereupon the following proceedings were had.

Mr. BRENNAN: No cross examination on behalf of the defendant Maueri. Your Honor, please, I will make the same motion at this time as I made in the case of the other witnesses who have heretofore testified. I assume that it will be the same ruling.

The COURT: The same ruling.

Mr. BRENNAN: To which we take an exception, your Honor please.

Exception No. 5

Thereupon

CLARENCE SMITH

called as a witness on behalf of the plaintiff, duly sworn, examined, and testified as follows:

My name is Clarence Smith. I am a filling station employee. I was so employed the twenty-second day of December, 1934. While I was employed at that station I had occasion to accept a ten dollar bill. The bill that you show to me is the one that I accepted. Those are my initials on it. They were placed there by me. The man who gave me the bill is present in the Court. He is the man in the grey suit over there.

The witness then identified the defendant Jimmy Pasqua, who gave his true name as Frank Scarpatura. The bill marked B33494741A was then received as government's exhibit F for identification. The defendant La Rosa was brought into the Courtroom.

At the time the bill was passed, the man had somebody else in company with him. He was driving a Buick Coupe, not a coupe, but a Buick Roadster. I did not really see the man clearly who was with him, enough to be really sure. I did not pay any attention to him and would not want to say, unless I was certain. [49] I saw somebody else in that coupe.

Q. Will you state whether or not you see anyone in the courtroom who came into your station, driving an Essex coupe?

(Testimony of Clarence Smith.)

A. The man in the brown suit over there.

Mr. Smith points at Gaspare La Rosa, the defendant named in the indictment.

I had occasion to take the number of the coupe. I wrote it on the back of the cash register and gave it to Mr. Geauque. I gave the number of the coupe to Mr. Geauque. By Mr. Geauque I mean that gentleman there.

Q. Who is seated at my side?

A. Yes, that is the 1935 license.

Q. I show you Government's Exhibit B for identification and ask you to state whether or not from your recollection of that Essex coupe that is a picture of the same.

A. I believe that is it. It had a leaky gas tank.

Q. In addition to the two men whom you have identified did you at any time ever see anyone else seated in the court-room in company with the two men whom you have identified, or by himself in your gas station?

A. By "himself," I have seen the man in the brown suit back there, but not in company with them.

The COURT: "Which man in the brown suit?

A. That man."

The COURT: "The witness identifies Salvatore Maugeri, a defendant on trial."

(Testimony of Clarence Smith.)

Cross Examination

By Mr. Brennan:

My gas station is located at the corner of Mission and Valencia.

Q. You indicated the defendant Maugeri.

A. From here it looks like a brown suit. That is the man anyway.

I saw him at Mission and Valencia. I saw him any number of times. He was a regular customer. He paid me for quantities of oil and gas. I do not remember any denomination of currency that he gave me. His visits were before and after the defendant Pasqua was there in the Buick car and the defendant [50] La Rosa was there in the Essex car. When the defendant La Rosa appeared at my gas station he paid me with a ten dollar bill. The defendant Pasqua was there in a Buick car. It was the defendant in the grey suit that paid me the ten dollar bill. It was the defendant Pasqua. I reported this incident to the United States Secret Service Bureau. I was first in touch with Mr. Geauque. Mr. Geauque told me that if we got any more bills to call him immediately and tell him about it. My suspicions were not aroused at the minute, but the other man at the station knew about it, because he had been tipped off before, and when the car left, he told me about it right away. We were on the watch for ten dollar bills. Prior and subsequent to that time Mr. Maugeri was there. He never paid me with ten dollar bills.

(Testimony of Clarence Smith.)

Cross Examination

By Mr. Cheliden:

I put my initials on the ten dollar bill made when Mr. Geauque got there. I received it on the 22nd day of December. I know that because I kept a record of it. That is the way I fixed that in my mind. It was about noon or a little past, I would say 12:30 or one o'clock around there. The person that gave it to me was wearing a brown suit. I believe that he was wearing a brown hat, but I could not be positive. I have seen the man before. He was there afterwards. He was a regular customer. He was there about once a week. I could not say how often. He was a regular customer. He paid me every time he bought gas and oil. I cannot recall whether he paid in coin or currency. The only reason I know about it, is I was put wise by the other fellow, Mr. Appiarius, who worked at the station told me on the same day that I received it.

Q. What did he tell you?

A. He told me Mr. Geauque——

I took down the license number of the Essex. I do not remember it now. It is in the *in the* record. He had been a [51] customer for at least a couple of months. I cannot recall the last time I saw him. I have not been asked by the secret service to identify him any place else.

Exception No. 5A

Thereupon

HENRY D. APPIARIUS

was called as a witness on behalf of the plaintiff, duly sworn, testified as follows.

Questions by Mr. Hammack:

My occupation is a service station operator. My service station is located at 28th and Valencia. I worked with Mr. Clarence Smith. I was so employed on the 22nd day of December, 1934. I was present at the time that a ten dollar bill was passed in the station for gasoline. I was cleaning the windshield as he passed the bill to Mr. Smith. Mr. Smith called my attention to the fact that he received a ten dollar bill. I saw the bill.

Referring to Government's Exhibit "F" for identification.

Thereupon the following proceedings were had.

Mr. BRENNAN: "May it be understood that I make the objections heretofore stated on behalf of the defendant Maugeri and that it will run to all of this testimony on the ground that it is immaterial, irrelevant, and incompetent, and hearsay, not within the issues in the indictment so far as the defendant Maugeri is concerned?"

The COURT: "Overruled."

Mr. BRENNAN: "May we note an exception?"

This is the bill shown me by Mr. Smith. It was displayed at that time.

Referring to Government's Exhibit "F" for identification. [52]

(Testimony of Henry D. Appiarius.)

Mr. HAMMACK: Q. State whether or not before or shortly thereafter there was anyone in the courtroom that you have seen come into your service station, either in a party or two or three or individually?

The WITNESS: A. Yes.

Mr. BRENNAN: Objected to on behalf of the defendant Maugeri, on the ground that it is immaterial, irrelevant and incompetent, and not within the issues of the case as set forth in the indictment.

Mr. CHELIDEN: The same objection on behalf of the defendant Pasqua.

The COURT: I do not quite get the point of your inquiry.

Mr. HAMMACK: Q. At any time shortly before or after or at the time the bill was passed—this is merely for the purpose of showing association.

The COURT: I will overrule the objection.

Mr. BRENNAN: Exception.

Exception 6.

The WITNESS (continuing) There is someone in the courtroom who had been in my service station about the day this bill was received. This big fellow there. That is the fellow.

The witness indicates the defendant Salvatore Maugeri.

I did not see him on the same day. He used to come into my station. Both of them came into my

(Testimony of Henry D. Appiarius.)

station. I don't know who the other one is. The other one is the young fellow, the one with the light suit.

The witness indicates defendant Jimmie Pasqua, true name given as Frank Scarpatura.

There is someone else in the courtroom who I have seen at the service station. The one right there. I mean Mr. Geauque. There is someone else. [53]

The witness indicates the defendant Gaspare La Rosa, who is not on trial but who had pleaded guilty.

He used to come in before the bill was passed. I should say about six weeks, maybe a little longer, before. He came in about two or three times a week. All three of them never came in together. Salvatore Maugeri and Jimmie Pasqua came in together. I knew Maugeri about a month before I knew the other two defendants. They came in and told me they wanted a rate on gas, and that he had sent them in, so I gave it to them; that is why they kept coming in. The only thing that was said by Mr. Maugeri was that they were friends of his and that he would send them in and to give them a rate on their gas.

Cross Examination

By Mr. Brennan:

Mr. Maugeri has been a customer at my place. He had a restaurant not very far from there before. I served Mr. Maugeri a great number of times in my

(Testimony of Henry D. Appiarus.)

station. I have made sales to him. I obtained money from him on those occasions both before and after I received the ten dollar bill in question. I received various kinds of bills and notes of different denomination. I was under instruction from the Secret Service Department to watch for these bills. I never received a bill from Mr. Maugeri that became the subject of investigation. I have served the defendant Pasqua. I received currency from him that became the subject of investigation.

Redirect Examination

By Mr. HAMMACK: Q. Mr. Appiarus, you testified that you received instructions from the Secret Service Department. Will you state what those instructions were and under what circumstances they were given?

Mr. BRENNAN: If your Honor please, that calls for hearsay.

Mr. HAMMACK: It was brought out on cross-examination. [54]

The COURT: You opened up the filed. I will allow the question as to what instructions he received.

Mr. BRENNAN: Exception.

Exception 7

The WITNESS: He came in and told me he was a Secret Service man and wanted to look at the bill. That was after the receipt of the bill. It was before

(Testimony of Henry D. Appiarius.)

—I was confused. They came in and asked me to show them the bill which I did, and he told me, he said “Be careful”. So after that I got the license numbers of the two other cars. I think it was a week before I received the ten dollar bill. It was given at the time Mr. Smith was cleaning the windshield. They spoke about a five dollar bill that he gave me. A stout fellow, Mr. Maugeri, gave it to me. He was in my station then. He was driving a Studebaker car. The other young fellow was with him. I can’t think of his name now. I mean Mr. Pasqua. Immediately after I received that five dollar bill I was visited by the Secret Service Department. They were there at the same time Mr. Maugeri handed the bill to me and for that reason I was suspicious of bills.

Mr. BRENNAN: If your Honor please, I renew the motion that has heretofore been made with reference to the testimony of the last witness. The same motion having been made in the case of the other witnesses who have heretofore testified.

The COURT: The same ruling.

Mr. BRENNAN: Exception.

Exception 8.

TONY ROSINI

Thereupon Tony Rosini was called as a witness on behalf of the plaintiff and testified as follows:

(Testimony of Tony Rosini.)

I work in a restaurant. The restaurant is on Eleventh Street. I was employed there on the 18th day of February 1935. I received the ten dollar bill in the ordinary course of business. [55] I can not tell whether this is the same bill or not. That is my name on it. I don't know when they put the name on there, but it was after they took it to the bank. I did not write on there. I did not see anything written on there. I did not take the money to the bank. The boss took the money to the bank. After they brought the bill back to the place I signed my name to it. The number of the bill is 32277534-A.

The bill is marked Government's Exhibit "G" for identification.

I took the bill. I put it in the cash register. It was the only ten dollar bill in the cash register. After my shift I left and the boss came in. I just left the money in the cash register. I do not check the cash. I put it in the cash register and the boss checks cash in the morning. The boss came in and took charge and I did not see the bill any more. The boss came back and told me he got a counterfeit note back from the bank. I do not know whether it was the same. I received it from a man. I received it on the date that I stated.

Mr. HAMMACK: Q. From whom did you receive the ten dollar bill on that date?

Mr. BRENNAN: Objected to on the ground it is immaterial, irrelevant and incompetent.

(Testimony of Tony Rosini.)

The COURT: The objection is overruled.

Mr. BRENNAN: Exception.

Exception 9.

The WITNESS: I think I could identify the man who gave me the bill. I can not identify him in the courtroom. I have looked all over the courtroom and I do not see the man.

Mr. BRENNAN: No questions on behalf of the defendant Maugeri, if your Honor please, and at this time I would like to make the same motions that I have heretofore made with respect to the testimony of the witnesses who preceded this witness on the stand. [56]

The COURT: The same ruling.

Mr. BRENNAN: I respectfully note an exception.

Exception 10.

WILLIAM H. BAILEY

Thereupon William H. Bailey was called as a witness on behalf of the plaintiff and testified as follows:

By Mr. Hammack:

I am a used-car dealer. My place of business is 1250 Mission Street. I was so engaged on the 29th of September 1934, I sold the car, a picture of which you show me. It is a Hup touring car. I think the

(Testimony of William H. Bailey.)

model was 1924. I sold the car to the man sitting over there. I may be mistaken, but I do not think so.

The witness indicates the defendant Jimmie Pasqua, true name Frank Scarpatura. The picture of the Hupmobile car is marked Government's Exhibit "H" for identification.

The WITNESS: At the time I sold the car I made a record of the license. I have a copy of the record. I did not bring the actual record. The copy was made at the time. Using this copy to refresh my memory, I would state that the license of the car was 4-J-8755, 1934 license.

Cross Examination

By Mr. Cheliden:

The man who bought the car had a brown suit on. It could have been another man besides the defendant I have identified as I only saw the man once. I am not absolutely certain that this is the man. I do not know whether I would be more positive if he had a hat on. I only spoke to the man once. I was the one who really closed the deal. The man I sold the car to had a hat on.

JOHN LYTLE

Thereupon John Lytle was called as a witness for the [57] plaintiff, testified as follows:

By Mr. Hammack:

My business is service station operator. My service station is located in Vacaville. I was employed

(Testimony of John Lytle.)

there on September 30, 1934. I received a ten dollar bill for gasoline. It did not look as if it had been used at all. It was brand new and I became suspicious of it. I always do when I see a new one. I remember the car that came into the station at the time I received the bill. It was a touring car. It was a Hupmobile. There were two people in it. There is one of them over there, and this one right here, the one with the light suit.

The witness indicates the defendant Jimmie Pasqua, true name Frank Scarpatura.

Also this man over there, the man with the brown suit.

The witness indicates the defendant La Rosa.

I took the number of the car. I do not remember it right offhand. That is a picture of the car. La Rosa drove it in. I do not remember exactly which one drove it in, but I am quite sure La Rosa drove it out. That looks like the bill that I received.

The bill is marked Government's Exhibit "I" for identification. The number is B-47881481.

The man in the brown suit gave me the ten dollar bill, La Rosa.

Mr. BRENNAN: No questions, if your Honor please, on behalf of the defendant Maugeri. I now desire to make the same motions relative to the testimony of this witness as were heretofore made by me on behalf of the defendant Maugeri in the case

(Testimony of John Lytle.)

of the other witnesses who preceded this witness on the stand, your Honor.

The COURT: Same ruling.

Mr. BRENNAN: May we have an exception.

The COURT: The record will disclose Counsel's statement.

Exception 11. [58]

Cross-Examination

By Mr. Cheliden:

It looks like the bill I received. It looks like it, but I would not say for sure.

Redirect Examination

By Mr. Licking:

I don't remember whether I received more than one ten dollar bill on that date.

IVAN BARRETT

Thereupon Ivan Barrett was called as a witness on behalf of the plaintiff, and testified as follows:

By Mr. Hammack:

I am at present driving a beverage truck. I was temporarily a service station operator at a service station a mile west of Tracy on the Lincoln Highway. I was employed there on October 2, 1934. I received a ten dollar bill in payment for gasoline—

(Testimony of Ivan Barrett.)

payment for cigars, not gasoline. They handed it to me. They drove in a little before ten, in a Hupmobile touring of rather ancient model. There were two men in the car. I would say that that is a picture of the car. One of the men is in the courtroom.

The witness identified defendant Jimmie Pasqua, true name Frank Scarpatura.

The gentleman in the brown suit over there is the other gentleman.

The witness identifies the defendant La Rosa.

I put no mark on the bill but that looks like the bill. I received the bill from Mr. La Rosa.

The bill is received as Government's Exhibit "J" for Identification. The number of the bill is B-48291638-A.

Mr. BRENNAN: No questions on behalf of the defendant Maugeri. I now desire to make the same motions relative to the testimony of this witness as were heretofore made by me on behalf of the [59] defendant Maugeri in the case of the other witnesses who preceded this witness on the stand.

The COURT: The same will be denied and for the same reasons.

Mr. BRENNAN: I respectfully note an exception.

Exception No. 12.

(Testimony of Ivan Barrett.)

Cross-Examination

By Mr. Cheliden:

I received the bill between 9:30 and 10 o'clock in the evening of October 2, 1934. I remember that because the next morning Mr. Moore came down and had me fill out a blank. There is absolutely nothing on the bill that will enable me to identify it as the bill I received that night. Today was the first time that I saw Pasqua after the time that I received the bill. I saw him after I left the attorney. A gentleman took me down to the Marshal's office; I don't know who he was. I presume he was connected with the United States Government. That is my impression. That gentleman called Pasqua and said "Is that the man." That is the first time I have seen him since October 2nd.

Redirect Examination

By Mr. Hammack:

There is absolutely no doubt in my mind. I recognized him from his face.

ELSWORTH RAMOS

Thereupon Elsworth Ramos was called as a witness on behalf of the plaintiff and testified as follows:

By Mr. Hammack:

My name is Ellsworth J. Ramos. At the present time I am employed by the Loose-Wiles Biscuit

(Testimony of Elsworth Ramos.)

Company in San Francisco. On September 29, 1934 I was the manager of a beer parlor in Berkeley. It is located on the corner of Channing Way and San Pablo. While I was there employed I saw the gentleman seated over there, in the grey suit. [60]

The witness indicates the defendant Jimmie Pasqua, true name Frank Scarpatura.

I saw the other gentleman seated over there with him.

The witness indicates defendant La Rosa.

They came in the place together. I had a conversation with them. They came in and ordered two glasses of beer and my partner was helping at the bar. We were very crowded. He handed a ten dollar bill to my brother-in-law and my brother-in-law gave it to me and asked me to get some change. When I got the bill it did not feel right from the beginning. It did not feel like paper money should and I asked this gentleman where he got the money. Pasqua was the one I asked. He said that he got it from a friend of his who owns a pool room in Berkeley; and I was born and raised there and I knew everyone in business, and I knew that he was not connected with anyone in a pool room in Berkeley, and I asked him where. He said at the corner of University Avenue, and I said "This is no good, take it back and get some good money for it," and he took out a wallet and threw it down on the counter, and I should judge there was sixty or seventy

(Testimony of Elsworth Ramos.)

bills in paper money. It was all new and none of it was any good, that is, they were the same as the ten dollar bill. There were some of the twenty dollar denomination and there might have been some fives. I tried to keep the gentleman in conversation with my brother-in-law. We all huddled around the money to take a good look at it, and I tried to get out through the crowd and get to a telephone. We did not have a telephone in the place, and as I went out, I took the license number of the car. I had to go half a block to a phone. I phoned for the officers to come down. The two defendants got in the car and pulled away just as I got out. It was a Hupmobile touring car. I took the number of the car. The picture you show me is the car that they drove away in. The bill that you show me resembles the bill that was given to me by the [61] defendant Pasqua and the defendant La Rosa.

Mr. BRENNAN: No cross-examination, if your Honor please, on behalf of defendant Maugeri. I now desire to make the same motions relative to the testimony of this witness as were heretofore made by me on behalf of the defendant Maugeri in the case of the other witnesses who preceded this witness on the stand.

The COURT: The same ruling.

Mr. BRENNAN: May I respectfully note an exception.

Exception 13.

(Testimony of Elsworth Ramos.)

Cross-Examination

By Mr. Cheliden:

I did not accept that bill in payment for beer. I did not give any change. The way I first suspected it was not a genuine bill was the feeling of it. It did not have the feeling of real money; it was sort of greasy—like a counterfeit is. I have handled counterfeit bills before. Not that they were given me, but they were shown to me. I have seen them in places I have been and they all seem to have a greasy feeling. In other words, they feel like a piece of paper that laid around grease. That does not necessarily mean that it has grease on it, but it has that feeling. I have never handled valid bills that felt greasy. I would not say that if a valid bill had been in a particular place where grease could get on it it would not be greasy. I did not know that it was a counterfeit bill until I looked at it. There was a suspicious circumstance in their coming in. I never had seen them before. Their appearance was suspicious. They did not look just right. I have been in business for the last nine years and meet people all the time. I have been in the service station business and you get to know people pretty well in that line of business. You can tell by their character. You know right away what they are. The first time I saw these people I thought they were not right people. The picture on the bill was not quite [62] right. The engraving was not just right.

(Testimony of Elsworth Ramos.)

They looked suspicious. My determination was not made by the people that come in the place.

Redirect Examination

By Mr. Hammack:

As I went out to phone, I took the number and gave to the officers. A sergeant answered the phone at the police department. I do not remember the number of the car. I believe that is a picture of it. I am not certain of it. I believe that is the number.

CHARLES H. MATLIN

Thereupon Charles H. Matlin was called as a witness on behalf of the plaintiff, and testified as follows:

By Mr. Hammack:

My full name is Charles H. Matlin. I am a police officer in the City of Berkeley. I have been one for seven years. My rank is patrolman. I was in the police department on September 29, 1934. I was acting desk sergeant. It was my duty to prepare the records showing reports and complaints and broadcasting information from the station under my supervision. We have a broadcasting system in Berkeley. On September 29th or thereabouts our records show that there was a report of a certain Hupmobile touring car, with the license number, suspected of being used in the passing of counterfeit money on that date. The license number re-

(Testimony of Charles H. Matlin.)

ported was 4-J-8755. That is the license number in the picture. The car was suspected of being used in connection with the dissemination of counterfeit money. An officer was sent to the scene where the counterfeiters were supposed to have attempted to pass the bill and after complete information was secured, it was broadcast from KFW, that is the Berkeley Police Station, for all cars to be on the lookout for some men, and the description, together with the make of the car and license number and the direction the car had gone and what they were wanted for. On October 4th [63] a car came into our possession. It was found in Harmon Street just west of Adeline. There was no one in the car at the time. I could not say whether the car would run under its own power or not. The car was towed to the Shattuck Garage in Berkeley on October 4th. It had been seen in the street in the same place on October first at which time it had been tagged for parking on the street in violation of a city ordinance, but it was not until October 4th it was towed to the garage. I believe the car was turned over to the United States Secret Service. There has never been a claim for the car as far as I know.

Mr. BRENNAN: No cross-examination, if your Honor please, on behalf of the defendant Maugeri. I now desire to make the same motions relative to the testimony of this witness as were heretofore made by me on behalf of the defendant Maugeri in the case of the other witnesses who preceded this witness on the stand.

(Testimony of Charles H. Matlin.)

The COURT: The same ruling.

Mr. BRENNAN: Exception, if your Honor please.

Exception 14.

Cross-Examination

By Mr. Cheliden:

The car was found on October 4th on Harmon Street just west of Adeline. It had been there ever since October first. It was tagged in that location.

JOHN H. RICHWINE

Thereupon John H. Richwine was called as a witness for the plaintiff, and testified as follows:

By Mr. Hammack:

My business is automobile salesman. I am employed by the Arthur R. Lindburg Company. I was employed there on June 1st, 1933. I saw Salvatore Maugeri. I know Salvatore Maugeri. I had a conversation with him on that date in regard to the purchase of a car. I sold Mr. Maugeri a Studebaker Touring Car, 1921 model. I have the records of the car that was sold by me to [64] Mr. Maugeri. This is the record. Most of it is in my handwriting. It is a record of the Arthur R. Lindburg Company. Such records are made on the sale of all automobiles. The record indicates the name of the purchaser, the amount paid, the motor number and the serial number. The signature of Mr. Sam Maugeri was placed

(Testimony of John H. Richwine.)

there in my presence. Using records to refresh my recollection, the motor number was 24664, serial number 1024470.

Cross-Examination

By Mr. Brennan:

I have been employed by the Lindburg Company since it was taken over from the Chester Weaver Company some years ago. I know Mr. Maugeri. I have had other transactions with him. I remember his calling in reference to the purchase of a Studebaker 1921 model in question. I do not recognize the second slip among those papers. The only thing I recognize is this. They are the records taken from my concern and have been kept by them. It is all kept by the company. I see the name "Domenic" in blue pencil. I do not know that man. I did not see him that day. I will say he was not there. Maugeri said he was purchasing the car for someone else. I do not remember who he said he was purchasing it for.

"Q. Just to refresh your recollection Mr. Richwine, is it not true he told you he was purchasing this car for his nephew, Mr. Domenic in Santa Cruz?"

"A. I believe something to that effect, yes."

I do not remember the name, but I am sure he said some relative or somebody out of town that he was purchasing the car for. Who it was I don't remember. I don't remember whether he said the relative was engaged in the flower business, or raising flowers in Santa Cruz. I do not remember any

(Testimony of John H. Richwine.)

such remark. The remark may have been made. It is too far back for me to say. My recollection as to that conversation is hazy. I cannot say that there is a current year license number indicated. There is one indicated on the slip. These records were taken from the office of the Lindburg Company.

[65]

Redirect Examination

By Mr. Hammack:

I recognize the card that you show me. It is a sales tag. When we sell an automobile we mark it sold to the party, and the salesman, and the date of sale or date of delivery in this instance. The name on that is "Sam Maugeri," and the date of delivery is "6/2," signed by myself. The tag shown me had "by myself" when the car was sold.

Recross Examination

By Mr. Brennan:

The date is 6/2. That would be the second of June, 1933. That is the date of delivery, not the sales date.

BURMA A. TRAVIS

Thereupon Burma A. Travis was called on behalf of the plaintiff, and testified as follows:

By Mr. Licking:

I am in the employ of the State of California in the capacity of Assistant Chief Clerk, Division of

(Testimony of Burma A. Travis.)

Registrations, Department of Motor Vehicles. There comes under my care and supervision the keeping of records relative to the ownership of cars and the licenses issued to cars. I have the record showing the state license of a certain motor number 24664 and serial number 1024470. The number on the license issued for that car in 1934 is 3-J-826. There would be no other car in California that year using the same number.

Mr. BRENNAN: No questions. With reference to the testimony of this witness, I make the same motions, if your Honor please, for the same reasons as with the other witnesses; as to the last witness I believe I omitted to make the motion.

The COURT: The record will show your statement. The same ruling.

Mr. BRENNAN: Exception.

Exception 15. [66]

Redirect Examination

By Mr. Licking:

Our records show the name of the person registered as the owner of that car in that year and the address. The name is Jim Domenic, 155 Lighthouse Avenue.

ROBERT S. TAIT

Thereupon Robert S. Tait was called as a witness on behalf of the plaintiff and testified as follows:

By Mr. Licking:

I am in the water business. I am superintendent of the water works in Santa Cruz. It is a municipally owned water company. I have my records with me. As such superintendent the records as to subscribers or customers of my company are kept under my supervision. I have the records for 1933 and 1934. I have the records in regard to the ownership of the premises at 155 Lighthouse Avenue, Santa Cruz and the tenancy, if any, for the year 1933-1934. My record shows "S. Maugeri, owner". The tenant is "J. Domenic." There was the same owner and tenant in 1931.

Cross-Examination

By Mr. Brennan:

The record covers a period from 1931 to 1935. The word "Nash" means that is a meter.

Mr. BRENNAN: If your Honor please, so that the record shows, I make the same motion with respect to the testimony of the last witness and I would like to make the same motion with respect to the preceding witness and for the same reasons.

The COURT: Motion is denied.

Mr. BRENNAN: Exception.

Exception 16.

ROSCOE THOMPSON

Thereupon Roscoe Thompson was called as a witness on behalf of the plaintiff, and testified as follows: [67]

By Mr. Licking:

I am in business at Santa Cruz, in the garage business. I was in that business in 1934. I knew Jimmie Domenic. He lives at 155 Lighthouse Avenue. I recall an accident that Mr. Domenic suffered on the highway near Santa Cruz or Monterey. I was in Nebraska at the time. My garage business had something to do with this car after the accident. We keep books in connection with our business. The books of our company show that the car was taken out of the ocean on the same day as the accident, September 11, 1934. It was delivered to 155 Lighthouse Avenue, delivered to Domenic. I subsequently had a conversation with Domenic in reference to the car, a couple of conversations. I took possession of the car after the first conversation for the bill for taking it out of the ocean. I took it to the garage. I have a record of the motor number and serial number. The motor number is 24664 and the serial number is 1024470. I took the car about November 18, 1934. That is my best recollection. The car had no license plates on it when I took it.

Cross-Examination

By Mr. Brennan:

I do not know the distance it fell. It was a considerable distance, between forty and seventy feet.

(Testimony of Roscoe Thompson.)

Mr. Domenic was driving the car as far as I know. The car was demolished.

Mr. BRENNAN: Now, if your Honor please, at this time I wish to make the same objection and the same motions that have been heretofore made by me on behalf of the witness Maugeri, with reference to the testimony of this witness as I have to the witnesses who preceded this witness on the stand, and particularly as to the hearsay character of the testimony.

The COURT: The same ruling.

Mr. BRENNAN: May I have an exception to that, if your Honor please. [68]

The COURT: Let the record show it.

Exception 17.

Redirect Examination

By Mr. Licking:

The license plates were not on the car, and the car was demolished. The front bracket was broken in two. The two pieces of the front bracket were there. These pieces have bolt holes in them in which the brackets are set.

The COURT: We will now take an adjournment until tomorrow morning at ten o'clock.

(After the usual admonition to the Jury an adjournment was taken until Wednesday, June 12, 1935, o'clock a. m.)

(Testimony of Arch A. Strange.)

Wednesday, June 12, 1935, 10 a. m.

The COURT: The Jurors being present in the jury box, the defendants being present, and Counsel being present, we may proceed with the case on trial.

ARCH A. STRANGE

Thereupon Arch A. Strange was called as a witness on behalf of plaintiff, and testified as follows:

By Mr. Hammack:

I am in the Government service. I am an agent of the United States Secret Service. I have been serving as such for nineteen years. My duties are investigating counterfeiting cases and all other varieties of cases pertaining to the Treasury Department. I took part in the investigation leading up to the indictment against Salvatore Maugeri, Le Rosa and Jimmie Pasqua. I had occasion to receive, on behalf of the Department of Justice, certain alleged counterfeit notes set forth in this indictment. There was a note handled by one Earl Roberts. I received the note from a Mrs. Connelly, the wife of the proprietor of the Pay-and Take-It Grocery in the Crystal Palace Market. When I received [69] the note there was something out of the ordinary on the note itself. There was a license number on the note, or what appeared to be a license number. The license number was under investigation at that time. I had just returned from a trip out of town and was not familiar with it at the time

(Testimony of Arch A. Strange.)

I picked up the bill, but since I came to the office I was informed that it had been.

The witness examines Government's Exhibit "C" for Identification.

That is the note I received at the time. The license number on the note at the time was 3-J-826. The license number was written on the right-hand side of the back of the note at the end of the Treasury Building. It was written across. Part of it is still here. It was written in ordinary pencil. It has disappeared in part. There is "3-J"—I do not know whether you can make out the "8" or not. I am referring to the dim figure after the figure "3" which appears in the right part of the reverse of the note almost immediately at the rear of the right-hand side of the representation of the building. I made a mark on the note myself, my initials and the date it was received. I did not exhibit this note to Mr. Roberts. I turned it over to Agent Wells for further investigation.

Cross Examination

By Mr. Brennan:

From the time I received this note from Mrs. Connelly in the Crystal Palace Market it was either in my possession or the possession of our office. The number was on the note when I got it. Part of it is obliterated now. The note has not been out of the custody or care of our office or of Mr. Wells or myself or the United States District Attorney since it

(Testimony of Robert B. Wells.)

came into my possession at the Crystal Palace Market, with the exception of being in the custody of the Clerk of the Court at the time of the trial. [70]

Thereupon

ROBERT B. WELLS

was called as a witness on behalf of the plaintiff, and testified as follows:

By Mr. Licking:

I am an agent of the Secret Service of the United States. I have to do with the detection of the counterfeiters and counterfeit money, among my other duties. I took part in the investigation of this case of Maugeri, Le Rosa and a person who gave his name as "Jimmie Pasqua". In the course of my investigation I had occasion to receive a certain counterfeit ten dollar note, and later exhibited to one Earl Roberts, whose home address is 871 Vermont Street this city. I received the note from Agent Strange. There was a license number on the note. As I remember, it was written in ordinary lead pencil. The license number was 3-J-826. I exhibited it to Earl Roberts. I went to the service station at Eighteenth and Potrero Avenue where he was employed and showed him the note. He identified it and initialed it. He identified it by the license number he had written on the note. It was the license number which I have referred to. Government's Exhibit "C" for Identification is the

(Testimony of Robert B. Wells.)

note in question. I identified it by my initials and by the various witnesses, in other words, the various witnesses that I had initial it in my presence. There is a remnant of a license number visible there now "3-J" and following that it is not clear on the note. That is the place where the complete license number was when I received it. I am certain that Mr. Roberts identified the note.

Cross-Examination

By Mr. Brennan:

As far as I know this note came into the possession of our office, as Mr. Strange has just related on the stand, through Mrs. Connelly at the Crystal Palace Market. From the time that the note came into our office until it was introduced here for [71] identification, that note was either in the possession of our office or employees in our office, Mr. Strange and myself, or the United States District Attorney's office. There was a number on the note when I first got it. The number is partly obliterated and the note has been in the possession of our office and the United States Attorney's office until it was introduced for identification.

Mr. BRENNAN: Now, if your Honor please, inadvertently I omitted to make my motion that I have been making relative to the testimony of witnesses who have testified in the case, concerning the testimony of the last witness Mr. Strange who was on the stand. If I may, I would like to

(Testimony of Robert B. Wells.)

make the motion that I have heretofore made with respect to the testimony of the witnesses preceding Mr. Strange, the same motion, upon the same grounds; and likewise the same motion, upon the same grounds, relative to the witness now on the stand, Mr. Wells.

The COURT: Same ruling.

Mr. BRENNAN: Exception.
Exception 18.

AL LOGAN

Thereupon Al Logan was called as a witness on behalf of the plaintiff, and testified as follows:

By Mr. Licking:

My name is Al Logan. I am in the automobile repairing business. My place of business is located at 4266 Geary Street. I have been in the repair business about seven years. I know Sam Maugeri. I had occasion to talk with him on the 17th day of November, 1934, at my old shop 3600 Geary. I saw Mr. Maugeri at that address. I had a conversation with him in regard to a car. He brought a car in and it was an Essex. He said he wanted to get it fixed up for a friend of his, that the party was going to Los Angeles, and he wanted some rings and wrist pins, [72] valves ground, adjusting brakes and tightening them. It was a Saturday and there was quite a lot of work, and I said I would try and get it out for him, and I got some help and

(Testimony of Al Logan.)

got it out for him. It was an Essex Coupe. Mr. Sam Maugeri paid the bill. There was a party with him at the time. Sam is the man on the left. "The witness identifies the defendant Salvatore Maugeri". The other man is that man in the grey suit.

The witness identifies the defendant Jimmie Pasqua, true name Frank Scarpatura.

The only thing he said was that the little fellow was going to Los Angeles on a trip and that he wanted to get the car done at that time, and we did, and about 4 or 5 days later he brought the car back and said it was not shooting right. The car was brought back to the shop by Mr. Pasqua. I imagine that it was four or five days after the first visit of Mr. Maugeri and Mr. Pasqua that the car was brought back. I tightened it up or did something to it and they got it either the next day or following day. The little fellow got the car. I saw the car again when I moved to my new address, 4622 Geary. Sam came in and said the car had burned out a bearing in the country, and I said if it was my fault I would replace the bearing. When I say "Sam" I mean Maugeri. I know him as "Sam". It was about a week or two after Pasqua took out the car that it burned out the bearing. Maugeri spoke to me alone. He said he would bring the car to my shop, which they did, and I replaced the bearing and it stayed there for about a week. Sam Maugeri brought the car to my shop. There was somebody with him. I did not pay much attention to him. He

(Testimony of Al Logan.)

brought it in the front door and I shoved it into the shop. Mr. Maugeri did not say anything about towing the car to the shop. He said he would bring it in. There was a tire that went flat, or something and I sent him across the street to put some air in it, but they could not, and they went out and picked up a used tire or something, I think they paid a dollar for it. This was the last time I saw the Essex [73] car, as I went with the tire and fixed it up. Mr. Maugeri paid for the repair work. The amount was something like thirty dollars. There was a balance of a dollar left, I think, on the account. He also paid for a connecting rod. I did not charge him for the labor, but he paid for a new connection put in there. No one else besides Maugeri paid me for any of the work done on the car. The picture that you show me

Referring to Government's Exhibit for Identification "B"

is a picture of the car that I have testified of having repaired on occasions when it was in my shop.

Mr. BRENNAN: No cross-examination. At this time I desire to make the same motion as I have heretofore made in the case of each witness who preceded this witness, and upon the same grounds, if your Honor please.

The COURT: The same ruling.

Mr. BRENNAN: Exception.

Exception No. 19.

(Testimony of Al Logan.)

Cross-Examination

By Mr. Cheliden:

Pasqua is the man I saw on that occasion. I saw him after he brought the car back the second time. Since that time this is the next time I saw him. The secret service men took me out yesterday afternoon and said "Call Pasqua out," and said "Can you identify him?" In other words, after the time I saw him on Geary Street, the second time, the truth of the matter is I saw him yesterday before I saw him today. [74]

Redirect Examination

By Mr. Hammack:

There is no doubt in my mind at the time I saw this man yesterday that he was the same man that I had previously seen in my shop on a number of occasions.

ALBERT GROSSMAN

called as a witness for the United States.

My name is Albert Grossman. I am the owner of a tire shop. It is located at 579 Van Ness Avenue. I was the owner of that business on or about November 30, 1934. I know Mr. Sam Maugeri. If you show me the sales slip, I will tell you the exact date that I saw him, that is the sales slip for my store. It is a record of the sale that was made. Using that to refresh my memory, I can say that I saw Mr.

(Testimony of Albert Grossman.)

Maugeri in my store on November 30, 1934. I had a conversation with him. He wanted to buy a tire and had a credit memorandum which was due him, and he selected a tire and I issued the credit and he paid for the difference and went out with the tire. He was accompanied by another man. Examining this tire, I would say that it was the tire that was sold by me to Mr. Maugeri on November 30, 1934. The tire was paid for by Mr. Maugeri.

The tire is now marked United States Exhibit K for identification.

Mr. Maugeri is in the Courtroom. He is the large gentleman at the end of the table.

The record shows that the witness identified defendant Salvatore Maugeri on trial.

The sales slip on the sale of tire was then marked Government's Exhibit L for identification.

Mr. BRENNAN: No questions on cross examination. If your Honor please, on behalf of the defendant Maugeri I make the same motions that I have heretofore made on behalf of the defendant Maugeri with [75] respect to the testimony of each witness who has preceded the witness Grossman upon the witness stand upon the same grounds.

The COURT: The same ruling.

Mr. BRENNAN: We respectfully make an exception.

Exception No. 20

JULES A. ZIMMERLIN,

called for the United States.

Direct examination by Mr. Hammack.

My name is Jules Zimmerlin. I am in the bicycle business. In the month of November, 1934, I had a service station in San Mateo on 9th Avenue and Bayshore Highway. I observed an Essex coupe on or about the 28th day of November, 1934. I first noticed the car when it was going South on the Highway and past the Station. At the time I thought to myself, it would not go very far on account of the noisy motor. After a while, it came back with two men in the car. They had a blowout and they inquired whether or not I could fix the tire for them. I found that the tire could not be fixed and a new tire was too expensive for them, so they left the car in the station and came back for it two days later. This gentleman over there with the brown suit is one of the men who arrived in the Essex coupe on that date.

The records show that the witness identified the defendant Gaspare La Rosa.

and the other gentleman with the light suit.

The record shows that the witness identified defendant Jimmie Pasqua, true name Frank Scarpatura.

It remained there about two days. When he left I did not think it would get back to San Francisco. It was taken away by one of the men who I had

(Testimony of Jules A. Zimmerlin.)

seen there previously and another man whom I had not seen before. Mr. La Rosa was the man that took it away.

The witness identified Gaspare La Rosa, a defendant who had pleaded guilty, and is not now on trial.

and this man came with him in another car.

The records show that the witness identified the defendant Salvatore Maugeri. [76]

The picture that you show me is the car that was left at my station. "Referring to Government's Exhibit for identification 'B' and was taken away two days later."

Cross Examination

By Mr. BRENNAN: "I desire, first to make my motion based on the same grounds as heretofore made in the case of the other witnesses who preceded this witness relative to the testimony of the witness Zimmerlin, who is now upon the stand."

The COURT: "The same ruling."

Mr. BRENNAN: Exception.

Exception No. 21

Mr. Maugeri and Mr. La Rosa came in another machine. Mr. Maugeri was driving the other machine. The Essex was driven away by Mr. La Rosa.

PHILIP E. GEAUQUE

called for the United States, examined by Mr. Licking:

I am a secret service agent of the United States and part of my duties have to do with the detection of counterfeiting. I conducted the major part of the investigation leading up to the indictment in this case. I know the defendant Maugeri. I know the defendant Pasqua and I know the defendant La Rosa. They are the same ones who have been identified in this case. On November 28, James A. Mitchell and myself are watching Mr. Maugeri's home at 2161 North Point Street. Mr. Mitchel is away from the City at this time. About noon of that day we saw Mr. La Rosa and Mr. Maugeri leave from Maugeri's home in a Buick Roadster. The Roadster was license number 6 J 6704. La Rosa was driving. They proceeded to the LaSalle Cafe at 528 Green Street, where both of them entered. Shortly afterwards they came out, crossed the street and entered a Studebaker Sedan, license No. 3 H 9984. They drove to the United Tire Company at Van Ness Avenue and Golden Gate, where they entered and came out with an automobile tire. I have seen that tire again. It is Government's Exhibit K for [77] identification. They then proceeded out along Bayshore Highway to 9th Avenue and Bayshore and stopped at the Rio Grande Service Station, where was parked the Essex Coupe with a flat tire. I had never seen that Essex before. I have seen it since. Government's Exhibit B for identification is the

(Testimony of Philip E. Geauque.)

car I refer to. They arrived about two o'clock in the afternoon and the tire was taken from Maugeri's Sedan and placed on the Essex. By Maugeri's Sedan the Studebaker Sedan. Maugeri was driving it. They were around the station from the time I arrived until dusk. I do not know what they were doing. We were not close enough to see. We observed the attendant put on the tire. He had some trouble with the car, we found afterwards that he had. I do not know what they are doing. About dusk or possibly a little before dusk, La Rosa got in the Essex coupe and got some gas and started North on the Highway toward San Francisco at a speed of approximately twelve miles per hour. "Maugeri did not leave the station at that time." Maugeri remained seated at the wheel of the Sedan. After about ten minutes Maugeri left the station, caught up to the Essex and maintained the same speed as the Essex all the way up the highway to the Road where the Bayshore is connected with San Bruno, which is just about this side of the Municipal Airport. At that road the Essex turned West and Maugeri pulled to the righthand side of the Bayshore Highway, heading North and stopped. A little while later Maugeri drove over the same road as the Essex went over, and halfway between the Bayshore Highway and the Southern Pacific Railroad track he stopped and remained about five minutes. He was looking back toward the Bayshore Highway. I do not know what he was doing. "On the second

(Testimony of Philip E. Geauque.)

occasion he was looking back in the direction from which he had come." Finally he started over to the El Camino Highway and started North on the Highway and about the Tanforan Track caught up with the Essex, still going the same twelve miles an hour and continued to the new highway below the Cemetery, where he again pulled off the Highway and headed North, allowing the Essex to precede him up the new Highway. [78] He remained seated in his car for five minutes, when he continued in the same direction the Essex had taken. That is the highway behind Daly City and Colma. He continued over the Boulevard to, I believe 19th Avenue, where they stopped and as I passed them I observed them talking to each other. I was alone by that time, Mitchell had left me and I was driving our car and there was a lot of traffic and I lost track of the Studebaker and Essex. I didn't see either the defendant or the cars that day. In the course of my investigation I saw the defendant and the cars again many times. I never saw La Rosa again until April. The first defendant that I saw after the occasion when Maugeri took La Rosa to San Mateo was Maugeri. I saw him at various times with Pasqua, both on foot and in either one or the other of the automobiles. One belonged to Maugeri, the sedan, or the roadster that belonged to Pasqua. On December 8th, if I am not mistaken, I may be wrong about the date, we were again watching Maugeri, trying to locate La Rosa. On this occasion,

(Testimony of Philip E. Geauque.)

Maugeri and Pasqua left the LaSalle Restaurant this time in Pasqua's roadster, "The same Buick that they had started out in on the 28th of November" Agent Strange was with me on this occasion and we followed them on that date, Pasqua driving to Al Logan's repair shop on 10th Avenue and Geary, where we saw, in the back of the shop, the same Essex coupe that I had lost sight of in Golden Gate Park in November, I believe and license No. was 6J8302, but I am not sure of that. It was the 1934 license. When I next observed it, the same license plates were on it. They had a blowout. The tire blew out just as they were backing out. They got another car and finally left Logan's repair shop, Pasqua driving the Essex and Maugeri driving the Buick. Maugeri was preceding the Essex on the way downtown. At Bush and Larkin Street they had another blowout and Maugeri did not know that the Essex had a flat tire and went on and lost sight of Pasqua. Pasqua took the Essex to the Safety Company and secured a new tire, I mean a used tire and by this time it was [79] dark. It was around five, five fifteen or five thirty and he and proceeded East on Bush to Bush and Kearny where I lost them again on account of traffic congestion. I believe that not every day, but on a good many days from that time on we watched Maugeri and Pasqua until Pasqua disappeared. On the night of December 27 at eleven o'clock at night, I was covering Maugeri's house and I saw Pasqua and La Rosa

(Testimony of Philip E. Geauque.)

come out of the house and run across the street and get in Pasqua Buick roadster. I followed them to 333 Holly Park Circle in the Mission and La Rosa alighted and entered one of the houses there. Pasqua continued to 22nd and Alabama Street where he put his Buick in a garage. I dropped him then and from that time on I tried to locate La Rosa, but could not find him. In the meantime Pasqua disappeared. On March 15 we arrested Maugeri along with several other men. An April 8th, I located and arrested La Rosa riding in that Essex automobile. At that time it had on a new 1935 plate. I have heard that the license plate No. 3J 826 was originally issued to a roadster in the name of Domenic. That was not the license number on the Essex when I saw it in San Mateo. The 1934 license that was on the car was issued to a man by the name of Larkin. Those were the plates that were on it when I first saw it. The tire that I have identified was the one which I saw Maugeri take to San Mateo. At the time La Rosa was arrested this time was on the right rear of the Essex. I caused it to be taken off.

Mr. LICKING: That is all.

Mr. BRENNAN: I have no questions, if your Honor please, on behalf of the defendant Maugeri, but at this time, with reference to the testimony of the witness Geauque now upon the stand I make the same motion in defendant Maugeri's behalf as has been previously made to the testimony of each wit-

(Testimony of Philip E. Geauque.)

ness who preceded the witness Geauque on the stand, and upon the same grounds.

The COURT: The same ruling.

Mr. BRENNAN: Exception.

Exception No. 22. [80]

THOMAS B. FOSTER

Thereupon Thomas B. Foster was called as a witness for the plaintiff, and testified as follows:

By Mr. Licking:

I am in the Secret Service of the United States Government. I am in charge of the operations of that branch of the Government in this district. My district covers the northern judicial district of California, half of the judicial district of Nevada, and all of the judicial district of Hawaii. On June 15 I will have been in charge of that branch of the service fourteen years. I have been in the service 34 years. During all that period of time I have had occasion to deal with the matter of detection of counterfeit currency and counterfeit coin.

The witness was then shown Government's Exhibits A, C, D, E, F, I, and J for identification.

Exhibit A for identification is a counterfeit \$10 note on the Federal Reserve Bank of New York, having the check letter G, face plate 1896. Exhibit C for identification is likewise a counterfeit \$10 note

(Testimony of Thomas B. Foster.)

on the Federal Reserve Bank of New York, having the check letter G and face plate of 1896. Exhibit D for identification is likewise a \$10 counterfeit bill on the Federal Reserve Bank of New York, with the check letter G and the face plate of 1896. Exhibit E for identification is likewise a counterfeit \$10 note on the Federal Reserve Bank of New York, with the check letter G and face plate of 1896. Exhibit F for identification is likewise a counterfeit \$10 bill on the Federal Reserve Bank of New York, with the check letter G and face plate of 1896. Exhibit I for identification is also a counterfeit \$10 bill on the Federal Reserve Bank of New York, with the check letter G, and face plate of 1896. Exhibit J for identification is likewise a counterfeit \$10 bill on the Federal Reserve Bank of New York, having the check letter G and the face plate of 1896. [81] In my opinion all of these notes are from the same source. By that I mean they are from the same plates. I know these are counterfeit because they do not have the distributed silk fibre in the paper, which is always found in genuine currency; the portraits are not nearly so sharp or well defined; the printing is not nearly so good as on the genuine. They are, however, deceptive counterfeits. These defects are common to all the particular bills.

Mr. LICKING: I have no further questions.

Mr. BRENNAN: No questions on behalf of the defendant Maugeri, but at this time I want to make the same motion relative to the testimony of this witness, Captain Foster, as has heretofore been

(Testimony of Thomas B. Foster.)

made on behalf of the defendant Maugeri relative to the testimony of each witness who has preceded this witness upon the stand, and upon the same grounds.

The COURT: The same ruling.

Mr. BRENNAN: Exception.

Exception No. 23

Mr. LICKING: We now offer in evidence as to all of the defendants Government Exhibit A for identification.

The COURT: It will be received as Government's Exhibit No. 1.

Mr. BRENNAN: Objected to on the ground, in so far as the defendant Maugeri is concerned, it is immaterial, irrelevant, and incompetent, not binding upon the defendant Meugeri, not within the issues of this case so far as the defendant Maugeri is concerned.

Mr. CHELIDEN: I will interpose the same objection on behalf of the defendant Pasqua.

The COURT: The objection will be overruled.

Mr. BRENNAN: Exception.

Mr. CHELIDEN: Exception.

The note marked U. S. Exhibit A for identification was [82] received and marked in evidence as "U. S. Exhibit 1."

Exception No. 24.

(Testimony of Thomas B. Foster.)

Mr. LICKING: I now offer in evidence Exhibit B for identification.

Mr. BRENNAN: The same objection, if your Honor please, and upon the same grounds, if your Honor please.

Mr. CHELIDEN: The same objection.

The COURT: The objection will be overruled and it will be received as Government's Exhibit No. 2 in evidence.

Mr. BRENNAN: Exception.

Mr. CHELIDEN: Exception.

The photograph marked U. S. Exhibit B for identification was received and marked in evidence as U. S. Exhibit 2.

Exception No. 25

Mr. LICKING: I now offer in evidence Government's Exhibit C for identification.

Mr. BRENNAN: The same objection upon the same grounds, as to the defendant Maugeri.

Mr. CHELIDEN: The same objection.

The COURT: The objection will be overruled and it will be received as Government's Exhibit 3.

Mr. BRENNAN: Exception.

Mr. CHELIDEN: Exception.

The note marked U. S. Exhibit C for identification was received and marked in evidence as U. S. Exhibit 3.

Exception No. 26

(Testimony of Thomas B. Foster.)

Mr. LICKING: I now offer in evidence Government's Exhibit D for identification.

Mr. BRENNAN: The same objection, based upon the same grounds as to the defendant Maugeri.

Mr. CHELIDEN: The same objection as to the defendant Pasqua, your Honor.

The COURT: I will take that under advisement as to defendant D for identification. [83]

Mr. LICKING: I now offer in evidence Government's Exhibit E for identification.

Mr. BRENNAN: The same objection, upon the same grounds, on behalf of the defendant Maugeri.

Mr. CHELIDEN: The same objection.

The COURT: I will take that under advisement.

Mr. LICKING: I will now offer in evidence Government's Exhibit F for identification.

Mr. BRENNAN: The same objection, if your Honor please, based upon the same grounds, on behalf of the defendant Maugeri.

Mr. CHELIDEN: The same objection on behalf of the defendant Pasqua.

The COURT: The objection will be overruled and it will be received as Government's Exhibit 4 in evidence.

Mr. BRENNAN: Exception.

Mr. CHELIDEN: Exception.

The note marked "U. S. Exhibit F for identification" was received and marked in evidence as "U. S. Exhibit 4."

Exception No. 27

(Testimony of Thomas B. Foster.)

Mr. LICKING: I now offer in evidence Government's Exhibit H for identification.

Mr. BRENNAN: The same objection on behalf of the defendant Maugeri, based upon the same grounds, if your Honor please.

Mr. CHELIDEN: The same objection on behalf of the defendant Pasqua.

The COURT: The objections are overruled and it will be received as Government's Exhibit No. 5 in evidence.

Mr. BRENNAN: Exception.

Mr. CHELIDEN: Exception.

The photograph marked U. S. Exhibit H for identification was received and marked in evidence as "U. S. Exhibit 5."

Exception No. 28. [84]

Mr. LICKING: I now offer in evidence Government's Exhibit I for identification.

Mr. BRENNAN: The same objection on behalf of the defendant Maugeri, if your Honor please, based upon the same grounds.

Mr. CHELIDEN: The same objection on behalf of the defendant Pasqua, if your Honor please.

The COURT: The objection will be overruled and it will be received as Government's Exhibit No. 6 in evidence.

Mr. BRENNAN: Exception.

(Testimony of Thomas B. Foster.)

Mr. CHELIDEN: Exception.

The note marked U. S. Exhibit I for identification was received and marked in evidence as "U. S. Exhibit 6."

Exception No. 29

Mr. LICKING: I now offer in evidence Government's Exhibit J for identification.

Mr. BRENNAN: The same objection, if your Honor please, on behalf of the defendant Maugeri, based upon the same grounds.

Mr. CHELIDEN: The same objection on behalf of the defendant Pasqua, if your Honor please.

The COURT: The objection will be overruled and it will be received as Government's Exhibit No. 7 in evidence.

Mr. BRENNAN: Exception.

Mr. CHELIDEN: Exception.

The note marked U. S. Exhibit J for identification was received and marked in evidence as U. S. Exhibit 7.

Exception No. 30

Mr. LICKING: I now offer in evidence Government's Exhibit K for identification.

Mr. BRENNAN: The same objection on behalf of the defendant Maugeri, based upon the same grounds, your Honor.

Mr. CHELIDEN: The same objection on behalf of the defendant Pasqua. [85]

(Testimony of Thomas B. Foster.)

The COURT: Objection overruled, and it will be received as Government's Exhibit No. 8 in evidence.

Mr. BRENNAN: Exception.

Mr. CHELIDEN: Exception.

The tire marked U. S. Exhibit K for identification was received and marked in evidence as U. S. Exhibit 8.

Exception No. 31

Mr. LICKING: I now offer in evidence Government's Exhibit L for identification.

Mr. BRENNAN: The same objection, if your Honor please, on behalf of the defendant Maugeri, based upon the same grounds.

Mr. CHELIDEN: The same objection on behalf of the defendant Pasqua.

The COURT: It seems to me that is not anything that should go in evidence.

Mr. LICKING: It is really a sales slip and is really corroborative of the testimony, but it is not essential to the Government's case.

The COURT: I do not think it should be introduced in evidence. The testimony is in on it.

Mr. LICKING: Very well. There are certain matters your Honor has taken under advisement.

The COURT: As to Government's Exhibits D and E for identification.

Mr. LICKING: Does the Court wish me to make a resume of the testimony as to them?

(Testimony of Thomas B. Foster.)

The COURT: I think it should be submitted to the Court.

Mr. LICKING: I have prepared a resume of the evidence.

The COURT: If you will submit it to me I may be able to get in touch with the shorthand reporter at noon and satisfy myself as to those two.

Mr. LICKING: I will take the matter up with the Reporter and call his attention to the part of the testimony on which the Government [86] relies.

The COURT: Have you any further testimony which you are going to offer?

Mr. LICKING: The Government has no further evidence in the case, that is, it is the Government's intention to close at this time. The Government rests, your Honor.

The COURT: I will rule on those exhibits later, so that in making any motion it will be taken into consideration that it is made with the idea that the Court might or might not grant the offer as to Government's Exhibit D and E for identification, and you may go ahead.

Mr. BRENNAN: Now, may it please your Honor, at this time on behalf of the defendant Maugeri I desire to move that the testimony of each and every witness offered by the Government be stricken from the record upon the ground that the testimony of each witness in its entirety, so far as the defendant Maugeri is concerned, is immaterial, irrelevant, and incompetent, and hearsay,

(Testimony of Thomas B. Foster.)

and not within the issues presented by the indictment in this case, and I desire to make that motion as to each one of the thirteen counts in the indictment. And I desire at this time, if your Honor please, to make a motion in behalf of the defendant Maugeri for a directed verdict upon all the statutory grounds and upon the ground of the insufficiency of the evidence as against the defendant and Maugeri, and upon the further ground of the insufficiency of the charge in the indictment, and the insufficiency of the proof to meet the charges that have been set forth in the indictment as against the defendant Maugeri. I would like an opportunity to address the Court upon the motions that I have made, and I would ask that the jury be excused while I am presenting my argument on the law upon which I base my motions that I have indicated to your Honor.

The COURT: Any further motions on the part of the other defendant? [87]

Mr. CHELIDEN: For the purpose of keeping the record straight, on behalf of the defendant Pasqua I desire to make a motion for a directed verdict on the grounds Mr. Brennan has specified and the insufficiency of the evidence. I will submit that matter to your Honor without further argument.

The COURT: We will take a recess until two o'clock.

(With the usual admonition of the jury a recess was taken until two o'clock p. m.)

(Testimony of Thomas B. Foster.)

AFTERNOON SESSION.

The COURT: In respect to Exhibits D and E for identification the motion to have them placed in evidence will be denied.

Mr. LICKING: At this time, then, I move the dismissal of counts 3 and 4 and counts 7 and 8 and counts 11 and 12 as to all defendants.

The COURT: That will be granted. Let the jury be brought in.

(Thereupon the jury was brought in.)

The jurors being present in the jury box, the defendants being present, and counsel on both sides being present, I might advise the jury before proceeding to pass upon the motions which were presented to the Court before the jury was excused that since the absence of the jury that six of the counts have been dismissed on motion of the United States Attorney, in other words counts 3 and 4, 7 and 8, and 11 and 12, leaving now seven counts for consideration by the jury. The motions for a directed verdict on those counts which remain before the jury are denied. Let us proceed with the presentation of the case.

Mr. BRENNAN: May we note an exception at this time? The defendant Maugeri rests, if your Honor please.

Exception No. 32

Mr. CHELIDEN: Might I at this time make an opening statement?

(Testimony of Thomas B. Foster.)

The COURT: You may proceed.

(Thereupon Mr. Cheliden made a statement on behalf of defendant Pasqua.) [88]

FRANK SCARPATURA

Thereupon Frank Scarpatura was called as a witness on behalf of the defendants, and testified as follows:

By Mr. Cheliden:

My name is Frank Scarpatura. I am charged in this indictment as Jimmie Pasqua. I have used that name. It is a fictitious name. I used it because I was in business before and I lost the business, and I did not want my friends to know. I used it because I failed in business, and I did not want my friends and family to know that I was a failure in business. I was a "flop" in business. I remember the testimony of Mrs. Simpson to the effect that I passed a counterfeit \$10 bill on her. I did not pass a counterfeit note on her on September 28, 1934. I know that because I was sick on that date. I was sick on the 27th, 28th, 29th, 30th of September, and the 1st and 2nd of October. I was sick about 7 days, something like that. I had a fever and a bad cough. Mrs. Scardocci, at 2862 22nd Street, the landlady where I lived at that time took care of me. My sickness fixes the date in my mind. I was with nobody on the 2nd

(Testimony of Frank Scarpatura.)

day of October, that is the day my father died and I always stayed home. I always stayed at home on the anniversary of my father's death and on the anniversary of my mother's death. The date of my mother's anniversary is November 12th. I was not at El Cerrito on November 13. I have never been in El Cerrito. I don't know where Vacaville is. I was not with La Rosa in El Cerrito on November 13, 1934. I fix November 13 because I went to Santa Cruz to pick some mushrooms with a friend of mine in Santa Cruz, and the 14th was a birthday, so he told me to stay there, and I stayed there on the 13th and 14th. I went down on the 13th of November to pick some mushrooms with my friend, and he asked me to stay for his birthday on the 14th. On the 13th and 14th of November I was in Santa Cruz. I remember that I bought gasoline at a service station at Mission and Valencia [89] Streets, on December 22, 1934. I remember that because I had a check from Sacramento from a friend of mine, John Pelini, who has a grocery store. The check was for \$32. I gave it to Mrs. Scardocci because I had no money in the bank, had no bank account. She cashed it and brought me three \$10 bills and \$2, and I gave her one \$10. bill. I kept two \$10 bills and \$2, and then I bought some gasoline. I bought gasoline on that date because I was figuring to go out with my girl to get a ride, or something like that. I gave that service station a \$10 bill that day in payment of

(Testimony of Frank Scarpatura.)

gas. I gave the \$10 because the \$2 was not enough. I took ten gallons of gas and a quart of oil. I did not know that that \$10 bill was counterfeit when I handed it to the service station man. I never saw a counterfeit bill in my life. I had been buying gas at that service station regularly. I have never been in the company of La Rosa when he passed a \$10 bill. My acquaintance with La Rosa is that he was a barber and I used to go to his shop and get a shave and a haircut. I never owned a Hupmobile car.

Cross-Examination

By Mr. Licking:

I used the name Pasqua for four years, four and a half years. I was in business in White Plains, New York. I used the name Frank Scarpatura, my right name. I was using my right name when I failed there. I used this name Pasqua so that my people would not know I failed. My father and mother are dead, I have a cousin in New Rochelle, New York. The only people I now have alive live in New York. I have a cousin in New York, and three or four cousins in New Rochelle, New York, and I have some in Brooklyn. All of my friends and acquaintances live in New York. My business was in New York four years ago and I used this name of Scarpatura. I failed in that business. I was using that name at the time I failed. And thereafter I used the name of Pasqua so that my [90] friends would not know that I had been in that business. That was the only reason I had for using that name. That was the first fictitious

(Testimony of Frank Scarpatura.)

name I have ever used. I am sure I never used any other name except my own name of Scarpatura, Frank Scarpatura, and Jimmie Pasqua, and Tony Pasqua. Sometimes they put on the driver's license Tony Pasqua. When I was getting a driver's license they asked my name, and I told them Jimmie Pasqua, and they wrote the name Pasqua Jimmie. When my attorney questioned me, I said that I used that name so that the people back in New York would not know that I failed in business. When I went to get a license, I gave the name Jimmie Pasqua and they put it down Pasqua Jimmie, and then I got ahead and write the same name. I did not have a doctor at the time I was sick with fever. I was sick in bed with it about five or six or seven days, something like that. I never called in any doctor. I was working for about sixteen months in the Central Market at 23rd and Bryant. From October, 1934, up to now, I had no work. The last place I worked I was picking fruit in the country, last August. It was a few months after I came from back East that I started to work at this market, and I was there about sixteen months. I failed in business in White Plains in 1930. Then I came out here. It was after I came out here that I took the name of Pasqua Jimmie in order that my people back East would not know I had failed in business there. At the time I failed in business I was using my right name, Frank Scarpatura. I

(Testimony of Frank Scarpatura.)

went to work at the Central Market, in San Francisco. I worked there about sixteen months, around 1932, I think. Then I worked in the country where I could pick fruit, down at San Jose, Santa Cruz, all over the country, I have been all around. I worked at picking fruit. I picked fruit in the summer time. After that I picked grapes. I worked all over the country. I picked grapes. I was in Sacramento once in a while. I never done work up there. I went to see a friend of mine, and tried to find something up [91] there, but could not. I never did anything around Sacramento. I was not doing anything at all during this period of time that these people think I passed these bills on them. The money I had I got for working about 16 months over in the market and then in the summer time in the fruit. It was back in 1932 that I worked in the market. I am a pretty economical fellow. I saved my money pretty well. I have been making money in the summer time, and once in a while I used to go early in the morning to the market and help take something out of the truck, and maybe make a dollar or two, enough to make my living. I had an automobile, a Buick. There is a loan on it. I never had a Hupmobile. I never used to ride around with Gaspare La Rosa. I did not buy this Essex. I never had anything to do with it. I went once down to San Mateo, on the Bayshore Highway to get it with Sam Maugeri and take it to the ferry. That was the only thing I had to do with it. I don't know whose it was. I don't know if it be-

(Testimony of Frank Scarpatura.)

longed to another fellow who was from Los Angeles, maybe it was his. He was a little short fellow that looks like me only with a moustache. I only brought that to the garage and then after that I brought it to the Ferry. I did not go down with Sam to the Ferry. When I went down to San Mateo Sam drove my car and I drove the other car. Sam got me to drive it down to the Ferry after it was fixed up. I gave it to this little fellow and I came home. I saw it in Mr. Logan's garage. I am not sure that I was in there with Maugeri at that time. When Mr. Logan testified that I came in with Maugeri the first time it was fixed, he was mistaken. I brought the car from San Mateo and I took it to the Ferry, that is all I know. If they say I passed counterfeit money, I know nothing about it. I went East, I put a loan on my car, got \$135, and went back because I lived there. I went back because I had nothing to do, I had only this work in the summer time. I started back East February 3. I had not heard anything at the time about this Essex car that I [92] had been driving being looked for by the police. I had never heard anything about Gaspare La Rose being looked for by the police. Gaspare La Rosa is a barber. All I ever had to do with him was going in and getting a haircut once in a while, and a shave. I was once with La Rosa going hunting, on a Sunday morning, we got up early, and he asked me to go out in the car with him hunting, it was on a Sunday morn-

(Testimony of Frank Scarpatura.)

ing, I think it was in November, and we went down by San Mateo, we went through there, and we had a shotgun, and we could not kill nothing, just killed three robins, and then we came back about twelve o'clock and I went home. We went in my own car, the Buick. I never did ride around with him in the Essex. The only thing I had to do with the Essex was once when Maugeri asked me to bring it up from San Mateo for him, and another time when he asked me to take it down to the Ferry. I live at 2862 22nd Street, San Francisco. I have lived there for about two years. I think I had the Buick about two years, maybe more, I don't remember. I lived at 1086 Van Ness South, when I got the Buick. I used the name Tony Pasqua Jimmie. Sometimes I write that, and like that. Those are the two ways that I signed my name. I signed my name that way when I bought the car. Maybe the salesman write my name Pasqua Jimmie, and I write it that way. Maybe I didn't sign it that way. The salesman put the name that way and I have to sign it that way. I signed maybe Tony Pasqua Jimmie, or Jimmie Pasqua; maybe they put Tony Pasqua Jimmie in the paper and I have to sign it that way. That is my signature at the bottom of this. I did not sign that. I don't know if someone signed it for me. It looks like I signed it. That is my customary signature that I have written on this piece of paper. Only Pasqua Jimmie is on my driver's license. I think the Buick cost me \$644. I

(Testimony of Frank Scarpatura.)

paid around \$37 a month. I have not had any work since 1932 except what work I could get picking fruit. I was not doing anything at the time that I am accused [93] of passing bills. I have been working in the country. The last man I worked for was a man in Santa Cruz. I don't know his name. You go through there and ask for a job of picking fruit and they give it to you, they say "All right," and you work for a couple of months and that is all. I don't remember the name of the man I worked for last.

MRS. FRANCES SCARDOCCI

Thereupon Mrs. Frances Scardocci was called as a witness on behalf of the defendants, sworn, and testified through Interpreter Isadore Costanzo, as Interpreter.

By Mr. Cheliden:

I live at 2862 22nd Street. Frank Scarpatura lives with me. He has lived there about two years, more than two years. I remember the 27th day of September, 1934. He was sick in bed, and I went to the drug store to buy some medicine for him, and he was several days in bed. He had a bad cold and fever. I could not call a doctor because there was no money. He needed a doctor but he couldn't afford to get one. I remember December 22, 1934, I went in the store to cash a check for \$32. I gave

(Testimony of Mrs. Frances Scardocci.)

it to Mr. Scarpatura and he gave me \$10 and kept the rest of it.

Cross Examination

By Mr. Licking:

Frank Scarpatura has been living with me two years. He used to go in the country and stay for a while and came back. It was last September he was sick, the 27th, 28th, 29th and 30th, and October 1. The only way I remember is I had no money, and I could not get any doctor for him. He began to get sick the evening of the 27th and after that he was sick with fever and cold. I remember there was no money, and I didn't know what to do. The only way I remember this was I didn't have any money, and I could not get any doctor, I know it was the 27th, 28th, 29th, of September, and October, five or six days. On the anniversary of [94] his father's death and his mother's death he always stayed home. I understand some words, but I cannot understand everything. I know Jimmy for two years that he lived with me. He told us his name was Frank Scarpatura. By "us", I mean everybody that he knows. I know him pretty well. He is the man in the Court-room now. I know that his name is Frank Scarpatura. I am telling the truth. I have not deceived anybody, I have been telling the truth. I don't remember of ever having seen Mr. Strange before. Yes, I saw Mr. Geauque before. Yes, I saw that picture before. This

(Testimony of Mrs. Frances Scardocci.)

gentleman came around to my place several times and asked me if Jimmie lived there, and where Jimmie was, and whether I knew Jimmie. They showed me this picture at that time. I told them I knew Jimmie but I did not know where he was. I saw the picture and I told them that I knew the gentleman but I didn't know Jimmie Pasqua. They asked me about Jimmie Pasqua.

The picture is admitted for purpose of identification.

I did not want to tell them that a man was living at my home, because I didn't have a husband. He was the only party living at my home.

Mr. CHELIDEN: The defendant Pasqua rests.

Mr. LICKING: I would like to have Mr. Strange take the stand for just a moment.

ARCH A. STRANGE

Thereupon Arch A. Strange was recalled for the United States in rebuttal, and testified as follows:

By Mr. Licking:

In the course of my investigation of this case I had occasion to question the lady who was just on the stand; on one occasion. At the time of questioning her I showed her a picture of the defendant, Jimmie Pasqua. I knew at that time that he had used the name of Frank Scarpatura. I only

(Testimony of Arch A. Strange.)

questioned her as to Jimmy Pasqua, as I recall. She said that she did not know [95] Jimmie Pasqua. I showed her a photograph of Jimmie Pasqua. That is the photograph that I showed her. She said, "I know the man, but he does not live here." I told her we had seen him enter her place on occasions at night and come out in the morning, and we thought he lived there, but she said he did not live there, just she and her daughter lived there. We asked her where he was and she said she did not know.

Mr. LICKING: I now move the introduction of this photograph in evidence.

Mr. CHELIDEN: I object to the introduction of that photograph as immaterial, irrelevant and incompetent, and it has not been connected up, not within the issues of this case.

The COURT: The only thing is, the witness did not deny it was a picture of the defendant.

Mr. LICKING: If it may be stipulated that is a correct representation of Pasqua there is no point in introducing it.

The COURT: The witness thought it was from her testimony. That is all.

Mr. BRENNAN: No questions. I would like to renew my motion on the same grounds.

The COURT: Overruled.

Mr. BRENNAN: Exception.

Exception No. 33

Mr. LICKING: The Government rests.

The COURT: We will take an adjournment now until tomorrow, Thursday, June 13, 1935, at ten o'clock a. m.

(After the usual admonition of the jury an adjournment was here taken until tomorrow, Thursday, June 13, 1935, at ten o'clock a. m.) [96]

The COURT: The jurors being present in the jury box, the defendant being present, counsel on both sides being present, let me ask this question: Will your opening address take over twenty minutes?

Mr. Hammack: No, your Honor.

The COURT: Then I presume we may have it this morning. I am very anxious to have this case concluded today, the situation being this: if we do not send this case to the jury today we cannot proceed with the other case tomorrow morning, because there are several jurors on this jury who are on the other jury, in the case set for hearing tomorrow morning. Therefore, I am anxious to have this case go to the jury today. You will have an hour in which to present your case to the jury, and each of the counsel for the defendants will have a half hour. We may proceed, then.

Mr. BRENNAN: If your Honor please, through inadvertence I neglected to renew the motions at the close of the case last evening, the motion I had previously made to strike certain testimony and a motion for a directed verdict, and at this time, on the same grounds I urged at the time those motions were made, I renew those motions.

The COURT: The application will be denied.

Mr. BRENNAN: Exception.

Exception No. 33 A

The COURT: You will proceed with the opening argument on the part of the Government.

Argument [97]

Thereupon the Court instructed the Jury and at four o'clock June 13th, 1935 the Jury retired for deliberation and at 10:20 P. M. of said day, the Jury returned in the Court with a verdict of guilty as to the defendant Jimmy Pasqua, whose true name is Frank Scarpatura as to the counts one, two, five, nine, ten and thirteen; and as to the defendant Salvatore Maugeri upon the thirteenth count.

Thereupon the counsel for both defendants made motions for new trial, of an arrested judgment upon all the statutory grounds which motions were denied by the Court and exceptions duly taken.

Exception 34

Wherefore the defendant Salvatore Maugeri prays that the foregoing be settled, allowed and signed as his bill of exceptions in the above entitled matter.

CHARLES H. BRENNAN

EDMUND J. DUNNING

Attorneys for Appellant. [98]

[Title of Court and Cause.]

STIPULATION THAT BILL OF EXCEPTIONS
MAY BE SETTLED AND ALLOWED AND
APPROVED AND CERTIFIED

IT IS HEREBY STIPULATED that the foregoing sixty (60) pages truthfully set forth the proceedings had upon the trial of the defendant SALVATORE MAUGERI and that they contain in narrative form all of the testimony taken upon said trial together with all of the objections made by said defendant and the rulings thereon and the exceptions noted by said defendant; and that the foregoing may be settled, allowed and certified as the Bill of Exceptions in the above entitled matter:

AND IT IS FURTHER STIPULATED that an Order be made by the Court that the Clerk of said Court file the same as a record in said cause and transmit it to the Honorable Circuit Court of Appeals for the Ninth Circuit.

DATED: July Thirteenth, 1935.

H. H. McPIKE

United States Attorney

By VALENTINE C. HAMMACK

Assistant United States Attorney

CHARLES H. BRENNAN

Attorneys for defendant.

EDMUND J. DUNNING

Attorneys for defendant.

[Endorsed]: Service of the within Order by copy admitted this 16 day of July, 1935.

H. H. McPIKE,

Attorney for Plaintiff.

[Endorsed]: Filed Jul. 24, 1935. Walter B. Maling, Clerk. [99]

[Title of Court and Cause.]

PRAECIPE FOR TRANSCRIPT OF RECORD

To the Clerk of the above-entitled Court;

You will please prepare and certify transcript on appeal including:

Indictment.

Bill of exceptions, order and stipulations settling and certifying the same.

Assignments of error.

Motion for new trial and ruling thereon.

Motion for arrest of judgment and ruling thereon.

Notice of Appeal.

Verdict, judgment and sentence.

CHARLES H. BRENNAN

Attorney for Defendant

EDMUND J. DUNNING

Attorney for Defendant.

[Endorsed]: Received a copy of the within Praecipe this 26th day of July, 1935.

H. H. McPIKE,

Per V. C. H.

CHARLES H. BRENNAN

Attorney for Defendant

EDMUND J. DUNNING

Attorney for Defendant.

[Endorsed]: Filed Jul 27, 1935. Walter B. Maling, Clerk. [100]

District Court of the United States
Northern District of CaliforniaCERTIFICATE OF CLERK TO TRANSCRIPT
OF RECORD ON APPEAL

I, Walter B. Maling, Clerk of the United States District Court, for the Northern District of California, do hereby certify that the foregoing 100 pages, numbered from 1 to 100, inclusive, contain a full, true, and correct transcript of the records and proceedings in the case of The United States of America vs. Salvatore Maugeri No. 25364-L, as the same now remain on file and of record in my office.

I further certify that the cost of preparing and certifying the foregoing transcript of record on appeal is the sum of Ten & 10/100 (\$10.10) Dollars and that the said amount has been paid to me by the Attorney for the appellant herein.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said District Court, this day of August, A. D. 1935.

[Seal]

WALTER B. MALING

Clerk.

By C. W. CALBREATH

Deputy Clerk. [101]

[Endorsed]: No. 7901. United States Circuit Court of Appeals for the Ninth Circuit. Salvatore Maugeri, Appellant, vs. United States of America, Appellee. Transcript of Record. Upon Appeal from the District Court of the United States for the Northern District of California, Southern Division.

Filed August 19, 1935.

PAUL P. O'BRIEN,

Clerk of the United States Circuit Court of Appeals for the Ninth Circuit.

